

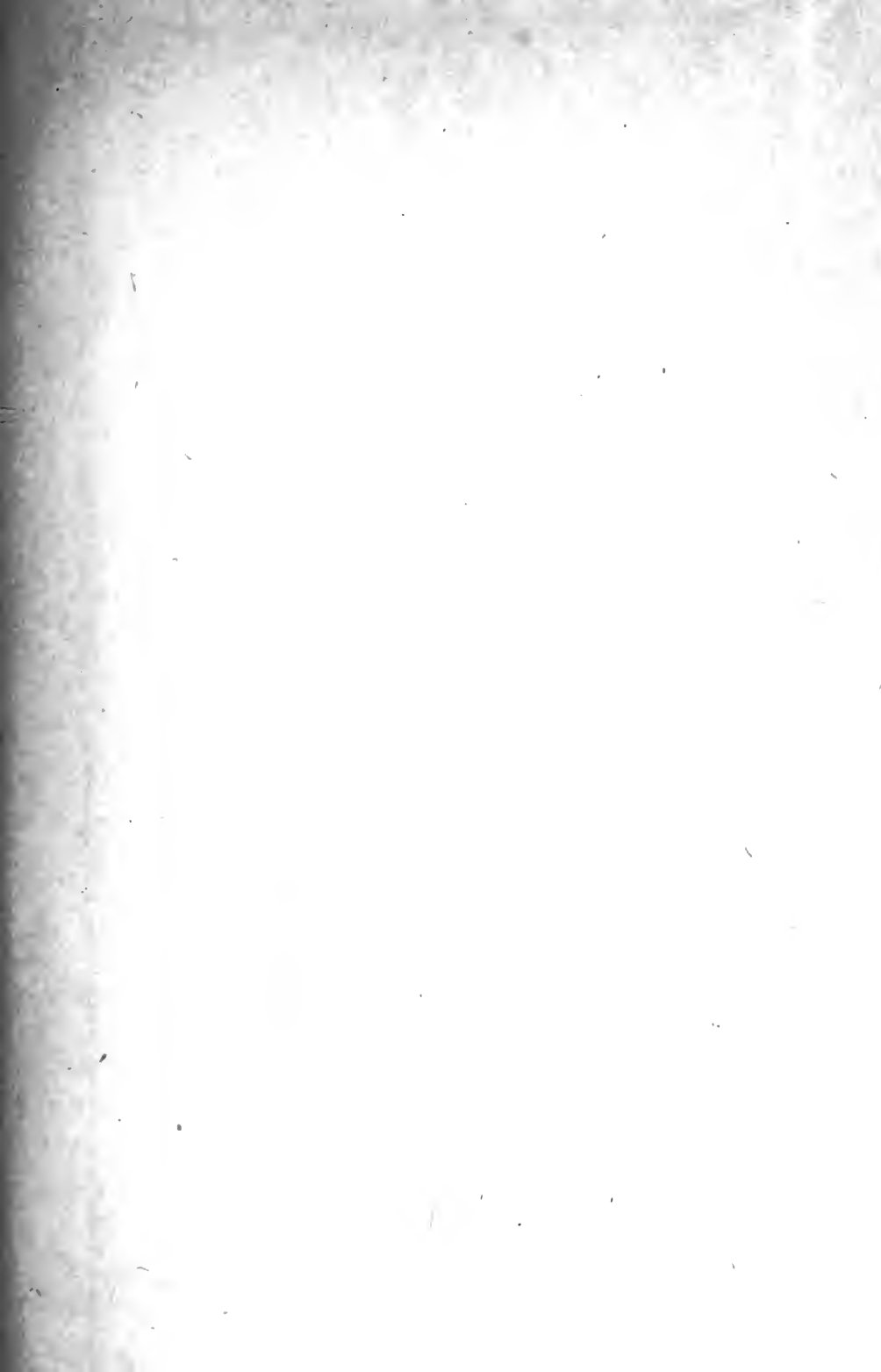
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No. 10989

2484

United States
Circuit Court of Appeals

For the Ninth Circuit.

**JACOB MORRIS DANZIGER, TRINIDAD IN-
TERNATIONAL PETROLEUM, LTD., and
WAKE DEVELOPMENT COMPANY,**
Appellants,

vs.

UNITED STATES OF AMERICA,
Appellee.

Transcript of Record
In Four Volumes
Volume I
Pages 1 to 447

Upon Appeal from the District Court of the United States
for the Southern District of California,
Central Division

FILED

FEB 26 1946

PAUL P. O'BRIEN,
CLERK



No. 10989

United States
Circuit Court of Appeals

For the Ninth Circuit.

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Central Division



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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in *italic*; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in *italic* the two words between which the omission seems to occur.]

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NAMES AND ADDRESSES OF ATTORNEYS:

For Appellants:

A. BRIGHAM ROSE,
205 S. Broadway,
Los Angeles 12, Calif.

For Appellee:

CHARLES H. CARR,
U. S. Attorney,
JAMES M. CARTER,
Assistant U. S. Attorney,

V. P. LUCAS,
Assistant U. S. Attorney,
600 U. S. Post Office and Court House
Bldg.,
Los Angeles 12, Calif. [1*]

In the District Court of the United States in and
for the Southern District of California, Central Division

No. 15,173

Viol.: Secs: 17(a)(1) and 5(a)(2), Securities Act of 1933. (15 U.S.C. Section 77q(a)(1), e(a)(1)) Section 37 of the Criminal Code (18 U.S.C. 88). Section 215 of the Criminal Code (18 U.S.C. 338). (Securities Act, Mail Fraud and Conspiracy).

INDICTMENT

At a stated term of said court, begun and holden at the City of Los Angeles, County of Los Angeles, within and for the Central Division of the Southern District of California on the second Monday of September in the year of our Lord one thousand nine hundred forty-one;

The grand jurors for the United States of America, impaneled and sworn in the Central Division of the Southern District of California and inquiring for the Southern District of California, upon their oaths present:

That Jacob Morris Danziger (also known as J. M. Danziger, A. Levy and T. Mack), Warren C. Carter (also known as George Carleton, William Carmen, A. L. Roberts, W. E. Edwards, George Williams, George Wilson, George Dawson, A. L. Baker and George Carver), John J. L. Callahan (also known as J. F. Connolly), Trinidad Inter-

national Petroleum, Ltd., a Nevada corporation, Wake Development Company, a Delaware corporation, and W. W. Wright, hereafter referred to as the defendants, whose true names to the Grand Jury are unknown, except as set out above, long prior to the uses of the mails hereafter set out and continuing to and including the date of the presentation of this indictment, did devise and intend to devise a scheme and artifice to cheat and defraud Michael A. Burns, J. Arthur Hazelton, Florence S. Lawyer, Harold J. McCoy, Elizabeth T. Parsons, Harry F. Pitts, Frederick A. Russell, Adeline B. Skinner, E. Barrie Smith, F. A. Stedcke, Ella May Tether, Raymond F. Walpert and other persons whose names, because of their number and want of knowledge on the part of the Grand [2] Jurors, are not here stated but comprising a class of persons who were stockholders in Great Eastern Natural Gas Company, Golden Quebec Mines, Ltd., South McKenzie Island Mines, Ltd., or other companies whose stock at the times hereafter mentioned had become valueless, which persons, hereafter called the persons to be defrauded, the defendants would induce and attempt to induce to pay money or property to the defendants as a result of fraudulent pretenses, promises, representations and devices which the defendants would make and use and cause to be made and used respecting Trinidad International Petroleum, Ltd., a Nevada corporation (hereafter called T. I. P.), its securities, operations, personnel and matters relating thereto as hereafter set out, which money

and property so obtained from the persons to be defrauded the defendants would convert to their own use and would not return to the persons to be (and who were) defrauded.

It was a part of the scheme that the defendants other than Jacob Morris Danziger, hereafter generally called Danziger, would call upon the persons to be defrauded, which persons lived mostly in States in the Eastern part of the United States, and would represent that the stock and so-called Profit-Sharing notes of T.I.P., a Nevada corporation, which corporation they represented (among other things) was engaged in the oil business on the Island of Trinidad, British West Indies, and elsewhere, and whose securities they represented (among other things) were listed and traded on the Stock Exchange at London, England, at prices of par or higher (the par of the T.I.P. stock was \$5 per share, and the par of each note was one English pound), could be obtained by the persons to be defrauded at much lower prices by sending money and property directly, or through the defendants, to Wake Development Company, a Delaware corporation, or the offices of T.I.P., both at Los Angeles, California.

It was further a part of the scheme that the defendant Danziger, who was president, and controlled and directed the activities, of both T.I.P. and Wake Development Company, should receive or cause [3] such corporations to receive the money and property sent in by the persons to be de-

frauded, and should cause a portion of such funds to be distributed to the other defendants and should cause stock and so-called Preferential Profit-Sharing Notes of T.I.P. to be issued to persons to be defrauded.

It was further a part of said scheme that the defendants other than Danziger, when calling upon the persons to be defrauded, would use fictitious names or aliases and would give fictitious addresses for themselves to the persons intended to be defrauded, so that it would be difficult if not impossible for the persons to be defrauded to later find the defendants who had called on them. It was further a part of the scheme that the defendant Danziger, when the persons to be defrauded should thereafter communicate with him or Wake Development Company or T.I.P. with reference to the persons who had called on them and representations which had induced them to part with their money, would pretend and cause such corporations to pretend not to know the name or address of the persons who had called on the persons to be defrauded and would claim that the representations made were without their knowledge or consent and that they were innocent in the matter. It was further a part of the scheme that the defendants would refuse to return any of the money or property paid by the persons to be defrauded, and that the defendants would thereafter retain the same.

It was further a part of the scheme that the de-

fendant Danziger, in transmitting funds to the other defendants, would use fictitious names and aliases and names other than his own in sending such funds and would transmit said funds to the other defendants under names which were different from the names used by the other defendants when they called on the persons to be defrauded. It was further a part of said scheme that defendant Danziger, in replying and in causing Wake Development Company and T.I.P. to reply to inquiries and letters received from the persons to be defrauded, would often secretly submit [4] such letters to the defendants who had called on them for the advice of such other defendants respecting the reply to be made. It was further a part of such scheme that the persons calling on the persons to be defrauded would frequently suggest or dictate to the persons to be defrauded the contents of the letters which the persons to be defrauded would write to Danziger, Wake Development Company or T.I.P., so that the letters so written would not refer to the name of the persons who called on them or the representations which had been made them.

It was further a part of the scheme that defendant Danziger should cause the Wake Development Company and T. I. P. frequently to appear to be reluctant to take the money and property of the persons to be defrauded and to issue stock or so-called Profit-Sharing notes in return therefor.

It was further a part of said scheme that defendants would use the United States mails, interstate and local telephone and telegraph facilities, oral and written communications, papers and pamphlets in their dealings with the persons to be defrauded and with each other.

It was further a part of the scheme that the defendants would represent and cause to be represented to the persons to be defrauded that:

(1) T.I.P. owned valuable oil properties on the island of Trinidad, British West Indies, and also in the State of New Mexico, was producing oil from its properties in Trinidad, had commercial oil wells thereon, was in a prosperous condition, and its securities would greatly rise in value. (The fact was, as the defendants then and there knew, but did not disclose to the persons to be defrauded, that defendant T.I.P. owned no properties in New Mexico; its sole asset consisted of a contract, obtained indirectly from its promoters, to acquire [5] certain rights to drill for and produce oil on certain lands on the island of Trinidad, the oil-producing possibilities of said lands being unknown; no commercial production of oil had ever been obtained from these properties; T.I.P. had not even been qualified to do business in Trinidad; although this contract to acquire such purported oil rights had been executed in 1933, neither T.I.P., nor anyone else, had ever paid any money thereunder nor had it, or anyone else, ever commenced any drilling operations thereunder and this contract was

probably subject to forfeiture for non-compliance therewith by T.I.P.; T.I.P. had never had any bank account or working capital, had no oil drilling equipment or other tools or equipment, kept no regular books of accounts, and had no assets except the contract referred to above; although T.I.P. had issued and outstanding \$5,000,000 par value worth of stock and 100,000 pounds face amount of so-called Preferential Profit-Sharing Notes, all of such securities had been issued in consideration of promotion services and this contract and none of the proceeds of the sale to the public of any of its securities had inured to the benefit of T.I.P.; none of the officers or directors of T.I.P. had ever visited the properties in the island of Trinidad covered by its contract to acquire oil rights; the person who was stated to be in charge of production for T.I.P. had never visited said properties and had not seen any detailed engineering or other reports thereon.) [6]

(2) That the persons to be defrauded who were shareholders of Great Eastern Natural Gas Company, Golden Quebec or South McKenzie Island Mines or other companies whose stock had become valueless, had acquired, as the result of action taken by such companies, a valuable "right" to obtain stock and so-called Profit-Sharing Notes of T.I.P., proportionate to the amount of stock held by them in such other companies, which "right" could be exercised by communicating with Wake Development Company or T.I.P. at Los Angeles and assigning this stock in such other com-

panies and paying money to Wake Development Company or T.I.P. on the exercise of such right. (The fact was, as the defendants and each of them knew, but did not disclose to the persons to be defrauded, that such "right" was of no value whatever and was merely a device whereby the defendants induced the persons to be defrauded to pay money or property to them, the defendants being generally willing to sell the stock and notes of T.I.P. to anyone who would pay them money and property therefor.)

(3) That the stock and so-called Profit-Sharing Notes of T.I.P. were listed and traded on the stock exchange at London, England, at a price much higher than the price at which the persons to be defrauded could get such stock and notes from Wake Development Company or T.I.P. at Los Angeles upon exercise of these rights; that the persons who called upon the persons to be defrauded would repurchase from the persons to be defrauded such securities of T.I.P. at prices much higher than [7] the cost to the persons to be defrauded; that it was necessary that the persons to be defrauded act quickly; that such repurchases at a big profit to the persons to be defrauded, would be made just as soon as the persons defrauded had obtained the stock and notes of T.I.P. from Los Angeles; that, in some cases, the defendants calling on the persons to be defrauded would represent that in the exercise of such "rights" to acquire securities of T.I.P. they would be partners with or agents for the persons to be defrauded and would pay,

with their own money, part of the original purchase price of such securities to Wake Development Company so that the persons to be defrauded would need pay, so they represented, but a part of the original cost of such securities, and defendant Dánziger would cause letters and wires to be sent the persons to be defrauded by Wake Development Company which would cause the persons to be defrauded to believe that such payments had been made. (The fact was, as the defendants then and there knew, but did not disclose to the persons to be defrauded, that the stock or notes of T.I.P. were not listed on the stock exchange in London, England, or anywhere else; that the promises made by the persons who called on the persons to be defrauded to repurchase from such persons the stock or notes of T.I.P. were made without the intention of performing same and were not performed, and the persons intended to be defrauded, due to the precautions taken by the defendants, as set out above, could not later even locate the persons who had called on them; that persons who called on them [8] had not in fact made payments to Wake Development Company as part of the purchase price to be supplied by the persons to be defrauded.)

(4) That the defendants would show or cause to be shown to the persons to be defrauded, clippings of newspapers purporting to show prices of securities on the stock exchange in London, England, which newspapers showed prices for securities of an oil company which had the word "Trini-

dad" in its name; that the defendants would represent and cause to be represented to the persons to be defrauded that the company whose name so appeared in the papers was T.I.P., the company whose securities the defendants were selling. (The fact was, as the defendants and each of them knew, but did not disclose to the persons to be defrauded, that the stock of T.I.P. was not listed or traded on the Stock Exchange in London, England, or elsewhere.)

(5) That persons variously described as Canadian interests, English interests or other people were attempting to acquire stock or notes of T.I.P., and that if the persons to be defrauded should buy T.I.P. stock or notes, they could easily sell their stock and notes to such other people at a profit. (The fact was, as the defendants and each of them knew, but did not disclose to the persons to be defrauded, that there were no other groups or persons who were attempting to acquire T. I. P. stock or notes. Such representation was without foundation.)

(6) That most of the stockholders in Golden Quebec Mines had exchanged their holdings for securities of T.I.P. (The fact was, as the defendants and each of them knew, but did not disclose to the persons [9] to be defrauded, that only a few of such stockholders had made the exchange.)

(7) That T.I.P. needed money to settle a law suit brought against it by one Edwards; that as soon as this law suit could be settled, its stock

could be sold at a very high price. (The fact was, as the defendants then and there knew, that no law suit had been brought against T.I.P. by Edwards or anyone else. Such statement was without foundation.)

(8) That there was a good market for the securities of T.I.P. at a price higher than what it was being offered the persons to be defrauded. (The fact was, as the defendants then and there knew, that there was no market for such shares except such market as the defendants made in selling securities pursuant to this scheme here set out.)

(9) That T.I.P. was a reputable company and its securities had great possibilities of appreciation. (The fact was, as the defendants then and there knew, that the securities of T.I.P. had been sold for several years by means of the methods above set out, and defendant Danziger had secretly transmitted part of the proceeds from such sales to the persons who called on the persons to be defrauded and none of the proceeds of such sales had ever found their way into the treasury of the company. T.I.P. at all times has been without funds and was in the condition previously set out.)

Each and every one of such representations was false and fraudulent and known by the defendants at the time they were made to be false and fraudulent, and each and every one of such representations [10] was made and caused to be made with the intent on the part of the defendants of

deceiving the persons to be defrauded and causing such persons to pay their money and property in reliance thereon, to the defendants, which money and property the defendants would, and did, convert to their own use and would not return to the persons to be defrauded.

And your Grand Jurors aforesaid, upon their oaths aforesaid, do further present that the said defendants, on or about May 15, 1940, in the City of Los Angeles, California, within the jurisdiction of this Court, so having devised the said scheme and artifice to defraud, did unlawfully, wilfully and feloniously, in the sale to Mrs. Elizabeth T. Parsons of Pottsville, Pennsylvania, of securities, to-wit: 600 shares of stock of T.I.P. and 600 units of so-called Preferential Profit-Sharing Notes of said corporation, by use of the United States mails, employ said scheme and artifice to defraud, and said use of the United States mails was in the manner following, to-wit:

Said defendants, on or about May 15, 1940, did place and cause to be placed in the Post Office establishment of the United States at Los Angeles, California, to be carried by the United States mails to Mrs. Elizabeth Parsons at Pottsville, Pennsylvania, a certain letter together with stock certificate #C-217 and note certificate #C-133 for stock and notes of Trinidad International Petroleum, Ltd., together with other enclosures in a post-paid envelope, which letter and envelope were in words and figures substantially as follows, to-wit: [11]

Wake Development Company
Investments

Continental Building
408 South Spring Street, Los Angeles, Cal.
Telephone Mutual 5698; Cable: Andanz
Bentley Code

May 15, 1940
[In longhand]: E.J.P.

Mrs. Elizabeth Parsons,
801 Mahantongo Road,
Pottsville, Pa.

Dear Mrs. Parsons:

Enclosed herewith you will find certificates of Trinidad International Petroleum, Ltd., in your name as follows:

Stock Certificate #C217 for 600 shares

Note Certificate C133 for 600 units

Kindly sign the receipt enclosed and return in the selfaddressed envelope herewith.

Since these certificates are being delivered to you in advance of final payment of the total amount due and since the balance amounts to \$940.00 we have prepared a note for this amount and dated it for settlement on June 15, 1940. If you will kindly sign this note and return it with the stub receipt for the stock and notes, our records will then be complete and we can credit your account on our books with the amount of this note which will then make your account completely paid in full.

Thanking you for your prompt attention, we are

Very truly yours,

WAKE DEVELOPMENT

COMPANY

J. M. DANZIGER,

By [Illegible]

Air Mail Registered

Return Receipt Requested

(Envelope)

Suite 1400

408 South Spring Street

Los Angeles

Via Air Mail

Air Mail Registered Return Receipt Requested

[Cancelled Postage Stamp]

Mrs. Elizabeth Parsons,

801 Mahantongo Road

Pottsville, Pa.

[Stamped]: Registered No. 225637

[Postoffice Stamps]: Los Angeles, California,
(Sta. No. 4) May 15, 1940, Registered. Pottsville,
Pa., May 17, 1940, Registered.

contrary to the form of the statute in such case
made and provided and against the peace and dig-
nity of the United States of America (Section
17(a) (1), Securities Act of 1933; 15 U.S.C. 77q
(a)(1).) [12]

COUNT TWO

And the Grand Jurors aforesaid upon their oaths aforesaid do further present:

That they do here reallege and incorporate, as if here set forth at length, the first count of this indictment except the last two paragraphs thereof;

That the defendants on or about May 8, 1939, then having devised the scheme and artifice to defraud, in the first count described, in the Central Division of the Southern District of California and within the jurisdiction of this Court, did unlawfully, wilfully and feloniously in the sale to Mrs. Florence S. Lawyer of securities, to wit: one hundred and eleven and $\frac{3}{7}$ shares of stock of Trinidad International Petroleum Ltd., a corporation, and one hundred and eleven and $\frac{3}{7}$ units of so-called Preferential Profit-Sharing Notes of Trinidad International Petroleum, Ltd., a corporation, by use of the United States Mails employ said scheme and artifice to defraud, and said use of the United States Mails was in the manner following to-wit:

The defendants on or about May 8, 1939, did place and cause to be placed in the United States Post Office at Los Angeles, California, to be sent and delivered by the Post Office establishment of the United States, according to the directions thereon, a letter enclosed in a postpaid envelope addressed to Florence S. Lawyer, 30 Odell Avenue, Yonkers, New York, which letter and envelope were in words and figures substantially as follows, to-wit: [13]

[Wakefield Development Company Letterhead]

May 8th, 1939

Mrs. Florence S. Lawyer
30 Odell Avenue
Yonkers, New York.

Dear Madam:

We acknowledge receipt of your letter of May 3rd with enclosures of Certificate #0333 for 200 shares and Certificate #0689 for 400 shares of Golden Quebec Mines stock, and your check in the amount of \$390.00.

Certificate for 111-3/7th shares of Trinidad International Petroleum, Ltd., stock and 111-3/7ths units of Preferential Profit Sharing Notes will be forwarded to you, via registered mail, within a few days.

Thanking you, we are

Very truly yours,
A. FAULKNER

F.S.L.

(Envelope)

[Cancelled Postage Stamp]: Los Angeles, Calif.
May 8, 4 PM, 1939, Arcade Annex.

Mrs. Florence S. Lawyer
30 Odell Avenue
Yonkers, New York

F.S.L.

contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America. (Section

17(a) (1) Securities Act of 1933, Section 77q(a)
(1) Title 15 U.S.C.) [14]

COUNT THREE

And the Grand Jurors aforesaid upon their oaths aforesaid do further present:

That they do here reallege and incorporate, as if here set forth at length, the first count of this indictment except the last two paragraphs thereof:

That the defendants on or about January 19, 1939, then having devised the scheme and artifice to defraud, in the first count described, in the Central Division of the Southern District of California and within the jurisdiction of this Court, did unlawfully, wilfully and feloniously in the sale to Harry F. Pitts of securities, to-wit: Sixty-eight and 5/7ths shares of stock of Trinidad International Petroleum, Ltd., a corporation, sixty-eight and 5/7ths units of so-called Preferential Profit Sharing Notes of Trinidad International Petroleum, Ltd., a corporation, by use of the United States Mails employ said scheme and artifice to defraud, and said use of the United States Mails was in the manner following, to-wit:

The defendants on or about January 19, 1939, did place and cause to be placed in the United States Post Office at Los Angeles, California, to be sent and delivered by the Post Office establishment of the United States, according to the directions thereon, a letter enclosed in a postpaid envelope addressed to Harry F. Pitts, 290 Wall Street, Kingston, New York, which letter and envelope

were in words and figures substantially as follows,
to-wit: [15]

[Wake Development Company Letterhead]

January 19th, 1939

Mr. Harry F. Pitts,
290 Wall Street,
Kingston, New York.

Dear Sir:

Your recent letter is at hand and we have given consideration to your request to exchange your 370 shares of Golden Quebec Mines stock for stock and notes of Trinidad International Petroleum, Ltd.

The basis of exchange which we offered to exchange Golden Quebec Mines stock for Trinidad International Petroleum, Ltd., stock and notes was a credit allowance of .65c for Golden Quebec Mines stock, providing a cash payment of .65c per share was made, and the total cash and credit was then to apply on a price of \$7.00 per unit for Trinidad International Petroleum, Ltd., each unit consisting of one share of stock and one Preferential Profit Sharing Note.

Our decision is to grant your request for this exchange on the above terms, providing that it is made at once as we, under no circumstances, will grant an option on this basis to be executed at a later date.

If it is your intention to apply for the exchange, you will kindly endorse your 370 shares of Golden Quebec Mines stock and mail same to us with your check, money order or bank draft drawn to order

of Wake Development Company, in the amount of \$240.50 and we will then have transferred to your name 68-37th shares of Trinidad International Petroleum, Ltd., stock and 68-3/7th units of Preferential Profit Sharing Notes of like concern, and will deliver same to you in due course.

It is definitely understood that this offer is made subject to immediate consummation and that it positively will not be renewed at a later date.

Very truly yours,
A. FAULKNER,
Secretary

[In longhand]: Jan. 23, '39—By reg. mail 320 G. Q. shares endorsed N. Y. Draft Not Ulster Co Bank 240.50.

(Envelope)

[Cancelled Postage Stamp]: Los Angeles, Calif., Jan. 19, 5:30 p.m., 1939, Arcade Annex.

[In longhand]: Geo. W. Williams, Temple Hotel

Mr. Harry F. Pitts,
290 Wall Street
Kingston, New York.

contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America. (Section 17(a) (1) Securities Act of 1933, Section 77q(a) (1) Title 15 U.S.C.) [16]

COUNT FOUR

And the grand jurors aforesaid upon their oaths aforesaid do further present:

That they do here reallege and incorporate, as if here set forth at length, the first count of this indictment except the last two paragraphs thereof;

That the defendants on or about January 5, 1939, then having devised the scheme and artifice to defraud, in the first count described, in the Central Division of the Southern District of California and within the jurisdiction of this Court, did unlawfully, wilfully and feloniously in the sale to F. A. Russell of securities, to wit: one hundred shares of stock of Trinidad International Petroleum, Ltd., a corporation, and one hundred units of so-called preferential profit sharing notes of Trinidad International Petroleum, Ltd., a corporation, by use of the United States Mails employ said scheme and artifice to defraud, and said use of the United States Mails was in the manner following, to wit:

The defendants on or about January 5, 1939, did place and cause to be placed in the United States Post Office at Los Angeles, California, to be sent and delivered by the Post Office establishment of the United States, according to the directions thereon, a letter enclosed in a postpaid envelope addressed to F. A. Russell, 119 Merriam Avenue, Leominster, Massachusetts, which letter and envelope were in words and figures substantially as follows, to wit: [17]

[Wake Development Company Letterhead]

January 5th, 1939

[In longhand]: (Illegible) Wood, Cedar Pines
Park, Cedar Pines, Cal.

January 5th, 1939

Mr. F. A. Russell,
119 Merriam Avenue
Leominster, Massachusetts.

Dear Sir:

On December 5th, 1938, we wrote you asking you to kindly give us some explanation of your recent request to exchange 10,000 shares of South McKenzie Island Mines, Ltd., stock against which you sent us a deposit of \$350.00 as a 10% down payment, and your subsequent telegram asking that we cancel your previous instructions.

Since we have not received a response to our letter, we assume you no longer desire to exchange all your South McKenzie Island stock, and since your deposit of \$350.00 will cover the exchange of 1,000 shares of South McKenzie Island stock for 100 shares of Trinidad International Petroleum, Ltd., stock and Notes, we are enclosing herewith 100 shares of Trinidad International Petroleum, Ltd., stock and 100 units of Preferential Profit Sharing Notes.

Our records show you did not send us the 1,000 shares of South McKenzie Island Mines stock and we would therefore thank you to us us this stock, properly endorsed, at your earliest convenience.

Also kindly sign and return the enclosed receipt for the Trinidad International Petroleum, Ltd., stock and Preferential Profit Sharing Notes.

Very truly yours,
A. FAULKNER
Secretary

[In longhand]: JMD 5/27/41 FAR

Encls. Stock and Notes.

Registered Air Mail.

(Envelope)

[Cancelled Postage Stamps]

Registered Air Mail Return Receipt Requested

Mr. F. A. Russell
119 Merriam Avenue
Leominster, Massachusetts

[Stamped]: Registered No. 380167 Via Ail Mail

[Stamped]: Los Angeles, Calif., Jan. 5, 1939,
Registered. Leominster, Mass., Jan. 7, 1939, Re-
gistered.

INCORPORATED UNDER THE LAWS OF

198

REVADA

hires

TRINIDAD INTERNATIONAL PETROLEUM, Limited

**CAPITAL STOCK 1,000,000 SHARES
(FULLY PAID AND NON-ASSESSABLE)**

THIS CERTAINLY

ON THE HINDS OF

F. W. RUSSELL

TRINIDAD INTERNATIONAL PETROLEUM, Limited

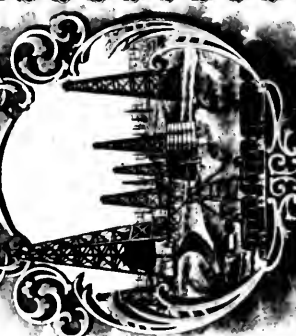
Every country may in that case of the people nation for the nation
and in person may, if the more, when in result of that, the nation
the world, and the world.

SHARES

EACH

CERTIFICATE
FOR

100
SHARES



CAPITAL STOCK

TRINIDAD
INTERNATIONAL
PETROLEUM,
Limited

ISSUED TO

R. A. RUSSELL

DATED

January 5, 1939

For Value Received, hereby sell, assign and transfer
unto

Shares
of the Capital Stock represented by the within
Certificate, and do hereby irrevocably constitute and appoint
to transfer the said Stock on the books of the within named
Corporation with full power of substitution in the premises.
Dated 19

In presence of

NOTICE: THE SIGNATURE OF THE HOLDER OF THIS CERTIFICATE MUST BE PRESENTED TO THE SECRETARY OF THE CORPORATION AT THE TIME OF THE TRANSFER OF THE STOCK ON THE BOOKS OF THE CORPORATION. IN WITNESS WHEREOF, THE SECRETARY OF THE CORPORATION HAS HEREUNTO SET HIS HAND AND SEAL OF OFFICE ON THE 5th DAY OF JANUARY, 1939.



(UNITED STATES OF AMERICA)

SERIAL NUMBER

C 114

NUMBER OF UNITS

****100****

Nominal Value
One Pound Sterling
Per Unit

Preferential Profit-Sharing Note OF Trinidad International Petroleum, Ltd.

INCORPORATED UNDER THE LAWS OF THE STATE OF NEVADA, U. S. A.
(REGISTERED IN GREAT BRITAIN)

This is to Certify that **F. A. RUSSELL**

is the registered holder of this Preferential Profit-Sharing Note, representing.....

***** ONE HUNDRED *****

.....units of a total issue of One Million identical units of the nominal value of One Pound (£1.) each. Each unit shall entitle the registered holder thereof to participate proportionately in Twenty Per Centum (20%) of the profits (computed as hereinafter provided) of **TRINIDAD INTERNATIONAL PETROLEUM, LIMITED** (hereinafter called the Company) derived from the production, refining and sale of petroleum and/or petroleum products recovered from those certain lands in the Island of Trinidad, British West Indies, acquired by the Company at its organization, a complete description of which is on file in the office of the Company in London, England.

Distribution of the said net profits shall be made to the holders of record of Preferential Profit-Sharing Notes on the last day of June and the last day of December of each year for their proportionate participation in the said net profits derived by the Company from its said operations on the said lands during the preceding calendar half-year, payable in London, England, in Pounds Sterling, ninety days after the last day of each such semi-annual period.

The amount of each such distribution shall be determined by a recognized firm of Chartered Accountants by the methods customarily in use in the American oil industry, making proper allowance for general and administrative expenses, abandonments, interest and taxes, super taxes, and assessments of every nature levied by domestic or foreign governments. If the Company shall engage in operations other than the said operations on the said lands, then the general and administrative expenses shall be divided between the various operations in proportion to the respective operating profits thereof, PROVIDED that if the Company shall sustain a loss from its said operation on the said lands during any such semi-annual period after June 30, 1934, the Company may withhold from payments due to note holders from net profits made during subsequent periods, an amount equal to Twenty Per Centum (20%) of the said losses, and shall not then or thereafter be required to pay to the note holders any part of the amount so withheld.

The Company may at any time, at its option, redeem all or any part of the said notes selected pro rata or by lot, by paying the registered holder thereof One Pound plus Ten Per Centum (10%) per unit thereof, together with the amount of any distribution of profits then due and unpaid.

So long as any Preferential Profit-Sharing Notes are outstanding there shall be no mortgage lien placed on the said lands which shall have preference over the income rights of the holders of the said notes, except with the written consent of the holders of at least Fifty Per Centum (50%) of the units represented by the said notes then outstanding.

In the event of any liquidation, dissolution or winding up of the affairs of the Company, whether voluntary or involuntary, the holders of the Preferential Profit-Sharing Notes shall not be entitled to any distribution of assets, nor shall they have any vested right in the properties of the Company, or vote in connection with same.

All or any of the units represented hereby may be individually negotiable, sold or transferred by the holders thereof, except to bearer, separately and apart from any certificate representing shares of the Company and may be transferred by the registered holder in person or by his duly authorized attorney upon surrender of said units properly endorsed at the office of the Company's Transfer Agent, in London, England.

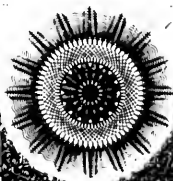
In Witness Whereof, **TRINIDAD INTERNATIONAL PETROLEUM, LIMITED**, has caused this Preferential Profit-Sharing Note to be executed in its behalf and in its corporate name, and its corporate seal to be affixed hereto by its officers properly authorized on the 5th day of January, 1934.

.....

.....

SECRETARY

PRESIDENT





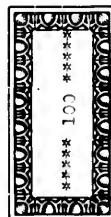
UNITED STATES OF AMERICA

**Trinidad International
Petroleum, Limited**

Incorporated under the Laws of the State of Nevada,
United States of America

(REGISTERED IN GREAT BRITAIN)

NUMBER OF UNITS



**Preferential
Profit-Sharing Note**

**Nominal Value
One Pound Sterling
Per Unit**

ASSIGNMENT

For Value Received, hereby sell, assign, and transfer unto
..... all the rights
represented by the within Note, and do hereby irrevocably constitute and appoint
..... my Attorney
to transfer the said Note on the books of the within-named Company with full power of
substitution in the premises.

Dated..... 19.....

In presence of:

NOTICE: The signature to this assignment must correspond with the name as written upon the face of the Note, in every particular, without alteration or enlargement, or any change whatever.

RECEIPT

Certificate No. B-198—For 100 Shares, issued to F. A. Russell, 119 Merriam Avenue, Leominster, Mass. Dated January 5, 1939.

Certificate No. C-114—For 100 Units Preferential Profit Sharing Notes, issued to F. A. Russell, 119 Merriam Avenue, Leominster, Mass. Dated January 5, 1939.

Received Certificate No. B-198, Certificate No. C-114 this.....day of....., 1939.

.....

contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America. (Section 17(a) (1) Securities Act of 1933, Section 77q(a) (1) Title 15 U.S.C.) [18]

COUNT FIVE

And the Grand Jurors aforesaid upon their oaths aforesaid do further present:

That they do here reallege and incorporate, as if here set forth at length, the first count of this indictment except the last two paragraphs thereof;

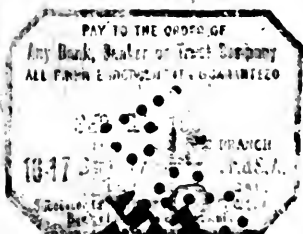
That the defendants on or about September 13, 1939, then having devised the scheme and artifice to defraud, in the first count described, in the Central Division of the Southern District of California and within the jurisdiction of this Court, did unlawfully, wilfully and feloniously in the sale to

Adeline B. Skinner of securities, to wit: one hundred shares of stock of Trinidad International Petroleum, Ltd., a corporation, and one hundred units of so-called Preferential Profit-Sharing Notes of Trinidad International Petroleum, Ltd., a corporation, by use of the United States Mails employ said scheme and artifice to defraud, and said use of the United States Mails was in the manner following, to wit:

The defendants on or about September 13, 1939 did place and cause to be placed in the United States Post Office at Los Angeles, California, to be sent and delivered by the Post Office establishment of the United States, according to the directions thereon, a check enclosed in a postpaid envelope addressed to Bank of the Manhattan Company, New York, New York, which check was in words and figures substantially as follows, to wit:

Alce B Skinner
Adeline B Skinner

PAY TO THE ORDER OF
Wm. B. Skinner Co.
 310-048



PAY TO THE ORDER OF
FEDERAL RESERVE BANK
 SEP 15 1939
 NEW YORK, N. Y.
 THE NATIONAL BANK
 60 WALL STREET
 NEW YORK, N. Y.

CASHIER'S CHECK

PAY TO THE ORDER OF

Adeline B. Skinner

THE FIRST NATIONAL BANK

FARMINGDALE, N. J.

SEP 1 2 1939

193

NO. A-5595

300.00

DOLLARS

CASHIER



contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America. (Section 17(a) (1) Securities Act of 1933, Section 77q(a) (1) Title 15 U.S.C.) [20]

COUNT SIX

And the Grand Jurors aforesaid, upon their oaths aforesaid to further present:

That they do here reallege and incorporate, as if here set forth at length, the first count of this indictment except the last two paragraphs thereof;

That the defendants on or about January 28, 1939, then having devised the scheme and artifice to defraud, in the first count described, in the Central Division of the Southern District of California and within the jurisdiction of this Court, did unlawfully, wilfully and feloniously in the sale to E. Barrie Smith of securities, to wit: fifty-five and 5/7 shares of stock of Trinidad International Petroleum, Ltd., a corporation, and fifty-five and 5/7 units of so-called preferential profit-sharing notes of Trinidad International Petroleum, Ltd., a corporation, by use of the United States Mails employ said scheme and artifice to defraud, and said use of the United States Mails was in the manner following, to wit:

The defendants on or about January 28, 1939, did place and cause to be placed in the United States Post Office at Los Angeles, California, to be sent and delivered by the Post Office establishment of

the United States, according to the directions thereon, a check enclosed in a postpaid envelope, addressed to the First National Bank of Boston, Boston, Massachusetts, which check was in words and figures substantially as follows, to wit: [21]

835

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED

JAILED

contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America. (Section 17(a) (1) Securities Act of 1933, Section 77q(a) (1) Title 15 U.S.C.) [22]

COUNT SEVEN

And the Grand Jurors aforesaid, upon their oaths aforesaid do further present:

That they do here reallege and incorporate, as if here set forth at length, the first count of this indictment except the last two paragraphs thereof:

That the defendants on or about May 22, 1939, then having devised the scheme and artifice to defraud, in the first count described, in the Central Division of the Southern District of California and within the jurisdiction of this Court, did unlawfully, wilfully and feloniously in the sale to Harry L. and Ella May Tether of securities, to-wit: five hundred shares of stock of Trinidad International Petroleum, Ltd., a corporation, and five hundred units of so-called Preferential Profit-Sharing Notes of Trinidad International Petroleum, Ltd., a corporation, by use of the United States Mails employ said scheme and artifice to defraud, and said use of the United States Mails was in the manner following, to-wit:

The defendants on or about May 22, 1939, did place and cause to be placed in the United States Post Office at Los Angeles, California, to be sent

and delivered by the Post Office establishment of the United States, according to the directions thereon, a check enclosed in a postpaid envelope addressed to Federal Trust Co., Newark, New Jersey, which check was in words and figures substantially as follows, to-wit: [23]

No 89

1925
MAY 20 1939

CEDAR BROOK, N.J. May 20 1939

55-603

THE FIRST NATIONAL BANK
OF CEDAR BROOK, N.J.

PAY TO THE ORDER OF

Make Deposit ^{or} less \$1500.⁰⁰
Fifteen Thousand, 00/100 DOLLARS

H. L. Sutton

Pay FEDERAL RESERVE BANK
New York, N. Y. or Order
ALL PRIOR ENDORSEMENTS GUARANTEED
MAY 26 1939
FEDERAL TRUST CO.
NEWARK, N. J.
D. G. CONNOLLY, Treas.

PAY TO THE ORDER OF
FEDERAL TRUST CO.
NEW YORK, N. Y.
MAY 27 1939
FEDERAL RESERVE BANK
NEW YORK, N. Y.
FEDERAL TRUST CO.
NEWARK, N. J.

W. L. & S. L. Branch
N. Y. & S. L.
N. Y. & S. L.
N. Y. & S. L.
N. Y. & S. L.

310-648

PAY TO THE ORDER OF

contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America. (Section 17(a) (1) Securities Act of 1933, Section 77q(a) (1) Title 15 U.S.C.) [24]

COUNT EIGHT

And the Grand Jurors aforesaid, upon their oaths aforesaid, do further present:

That Jacob Morris Danziger (also known as J. M. Danziger, A. Levy and T. Mack), Warren C. Carter (also known as George Carleton, William Carmen, A. L. Roberts, W. E. Edwards, George Williams, George Wilson, George Dawson, A. L. Baker and George Carver), John J. L. Callahan (also known as J. F. Connolly), Trinidad International Petroleum, Ltd., a Nevada corporation, Wake Development Company, a Delaware corporation, and W. W. Wright, hereafter referred to as the defendants, whose true names to the Grand Jury are unknown, except as set out above, on or about January 26, 1939, in the Central Division of the Southern District of California and within the jurisdiction of this Court, did wilfully, unlawfully and feloniously cause to be carried through the United States mails certain securities, to-wit: certificates of one hundred shares of stock of Trinidad International Petroleum, Ltd., a corporation, and one hundred units of so-called Preferential Profit-Sharing Notes of Trinidad International Petroleum, Ltd., for the purpose of sale and deliv-

ery after sale to Michael A. Burns, no registration statement being in effect as to such securities, which said securities the defendants did sell and deliver to said Michael A. Burns and said carriage through the United States Mails was in the manner following, to-wit:

The defendants on or about January 26, 1939, did place and cause to be placed in the United States Post Office at Los Angeles, California, to be sent and delivered (and which was delivered) according to the directions thereon a postpaid envelope addressed to Michatel A. Burns, 943 Peekskill, New York, enclosing said securities, which securities were in words and figures substantially as follows, to-wit: [25]

[Wake Development Company Letterhead]

January 25th, 1939

Mr. Michael Burns,
943 Second Street,
Peekskill, New York.

Dear Sir:

In compliance with our letter of January 6th, 1939, we enclose herewith Certificate B-201 for 100 shares of Trinidad International Petroleum, Ltd., stock, and Certificate C-117 for 100 units of Preferential Profit Sharing Notes of like concern.

Will you kindly sign the attached receipt and

return at your early convenience so that our records may be complete.

Thanking you, we are,

Very truly yours,

A. FAULKNER,

Secretary

Encs. Certificates

Registered air mail.

(Envelope)

[Cancelled Postage Stamp]

Registered Air Mail Return Receipt Requested

Mr. Michael Burns

943 Second Street

Peekskill, New York.

[Stamped]: 220616 Registered.

[Stamped]: Los Angeles, Calif. (Sta. H) Jan. 26, 1939, Registered. Peekskill, N. Y., Jan. 27, 1939, Registered.

[Printer's Note]: Certificate of Stock of Trinidad International Petroleum Limited for 100 shares of \$5.00 each and Preferential Profit-Sharing Note for 100 Units issued January 25, 1939, to Michael Burns are similar to certificate and note heretofore set forth at pages 24, 25, 26 and 27.

contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America. (Section 5(a) (2) Securities Act of 1933, 15 U.S.C. Sec. 77e(a)(2). [26]

COUNT NINE

And the Grand Jurors aforesaid, upon their oaths aforesaid do further present:

That Jacob Morris Danziger (also known as J. M. Danziger, A. Levy and T. Mack, Warren C. Carter (also known as George Carleton, William Carmen, A. L. Roberts, W. E. Edwards, George Williams, George Wilson, George Dawson, A. L. Baker and George Carver), John J. L. Callahan (also known as J. F. Connelly), Trinidad International Petroleum, Ltd., a Nevada corporation, Wake Development Company, a Delaware corporation, and W. W. Wright, hereafter referred to as the defendants, whose true names to the Grand Jury are unknown, except as set out above, on or about May 18, 1939, in the Central Division of the Southern District of California and within the jurisdiction of this Court, did wilfully, unlawfully and feloniously cause to be carried through the United States mails certain securities, to-wit: certificates of one hundred and eleven $\frac{3}{7}$ shares of stock of Trinidad International Petroleum, Ltd., a corporation, and one hundred and eleven $\frac{3}{7}$ units of so-called Preferential Profit-Sharing Notes of Trinidad International Petroleum, Ltd., for the purpose of sale and delivery after sale to Florence S. Lawyer, no registration statement being in effect as to such securities, which said securities the defendants did sell and deliver to said Florence S. Lawyer and said carriage through the United States Mails was in the manner following, to-wit:

The defendants on or about May 18, 1939, did place and cause to be placed in the United States Post Office at Los Angeles, California, to be sent and delivered (and which was delivered) according to the directions thereon a postpaid envelope addressed to Florence S. Lawyer, 30 Odell Avenue, Yonkers, New York, enclosing said securities, which securities were in words and figures substantially as follows, to-wit: [27]

[Wake Development Company Letterhead]

May 18th, 1939

Mrs. Florence S. Lawyer,
30 Odell Avenue
Yonkers, New York.

Dear Madam:

In accordance with our letter of May 8th, we enclose herewith Certificate C-209 for 111-3/7th shares of Trinidad International Petroleum, Ltd., stock, and Certificate C-125 for 111-3/7th units of Preferential Profit Sharing Notes.

At your convenience will you kindly sign the attached receipt and return in enclosed self-addressed, stamped envelope in order that our records may be complete.

Thanking you, we are

Very truly yours,

A. FAULKNER

Secretary

Registered Air Mail

Encls.

F.S.L.

(Envelope)

[Cancelled Postage Stamp]

Registered Airmail Return Receipt Requested

Mrs. Florence S. Lawyer
30 Odell Avenue
Yonkers, New York

[Stamped]: Registered 219307 F.S.L.

[Stamped]: Los Angeles, Calif., (Sta. H), May 18, 1939, Registered. Yonkers, N. Y. May 19, 1939, Registered. Yonkers, N. Y., May 20, 1939, Registered.

[Printer's Note]: Certificate of Stock of Trinidad International Petroleum Limited for 111-3/7 shares of \$5.00 each and Preferential Profit-Sharing Note of 111-3/7 units issued May 18, 1939, to Florence S. Lawyer are similar to certificate and note heretofore set forth at pages 24, 25, 26 and 27.

contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America. (Section 5(a)(2) Securities Act of 1933, 15 U.S.C. Sec. 77e(a)(2). [28])

COUNT TEN

And the Grand Jurors aforesaid, upon their oaths aforesaid do further present:

That Jacob Morris Danziger (also known as J. M. Danziger, A. Levy and T. Mack), Warren C.

Carter (also known as George Carleton, William Carmen, A. L. Roberts, W. E. Edwards, George Williams, George Wilson, George Dawson, A. L. Baker and George Carver), John J. L. Callahan (also known as J. F. Connolly), Trinidad International Petroleum, Ltd., a Nevada corporation, Wake Development Company, a Delaware corporation, and W. W. Wright, hereafter referred to as the defendants, whose true names to the Grand Jury are unknown, except as set out above, on or about February 20, 1939, in the Central Division of the Southern District of California and within the jurisdiction of this Court, did wilfully, unlawfully and feloniously cause to be carried through the United States mails certain securities, to-wit: certificates of sixty-eight and $5/7$ shares of stock of Trinidad International Petroleum, Ltd., a corporation, and sixty-eight and $5/7$ units of so-called Preferential Profit-Sharing Notes of Trinidad International Petroleum, Ltd., for the purpose of sale and delivery after sale to Harry F. Pitts, no registration statement being in effect as to such securities, which said securities the defendants did sell and deliver to said Harry F. Pitts and said carriage through the United States Mails was in the manner following, to-wit:

The defendants on or about February 20, 1939, did place and cause to be placed in the United States Post Office at Los Angeles, California, to be sent and delivered (and which was delivered) according to the directions thereon a postpaid envelope addressed to Harry F. Pitts, 290 Wall

Street, Kingston, New York, enclosing said securities, which securities were in words and figures substantially as follows, to-wit: [29]

[Wake Development Company Letterhead]

February 20th, 1939

Mr. Harry F. Pitts,
290 Wall Street
Kingston, New York.

Dear Sir:

In compliance with our letter of January 25th, 1939, we enclose Certificate C-207 for 68-5/7ths shares of Trinidad International Petroleum, Ltd., stock, and Certificate C-123 for 68-5/7th units of Preferential Profit Sharing Notes.

We note in our previous correspondence we made an error and referred to 68-3/7th Units of stock and notes which you would receive, but you will find that the certificates have been made out in the corrected amount of 68-5/7th shares.

Will you kindly sign the enclosed receipt and return same at your early convenience so that our records may be complete.

Thanking you, we are

Very truly yours,
A. FAULKNER,
Secretary

Encls.

Registered Air Mail.

HFP

(Envelope)

[Cancelled Postage Stamps]

Registered Air Mail Return Receipt Requested

Mr. Harry F. Pitts
290 Wall Street
Kingston, New York

[Stamped]: Registered No. 225622. H.F.P.

[Stamped]: Los Angeles, Calif., Sta. No. 4, Feb. 20, 1939. Registered. Kingston, N. Y., Feb. 23, 1939, Registered.

[Printer's Note]: Certificate of Stock of Trinidad International Petroleum Limited for 68-5/7th shares of \$5.00 each and Preferential Profit-Sharing Note for 68-5/7th units issued February 20, 1939, to Harry F. Pitts are similar to certificate and note heretofore set forth at pages 24, 25, 26 and 27.

contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America. (Section 5(a)(2) Securities Act of 1933, 15 U.S.C. Sec. 77e (a)(2). [30]

COUNT ELEVEN

And the Grand Jurors aforesaid, upon their oaths aforesaid do further present:

That Jacob Morris Danziger (also known as J. M. Danziger, A. Levy and T. Mack), Warren C. Carter (also known as George Carleton, William

Carmen, A. L. Roberts, W. E. Edwards, George Williams, George Wilson, George Dawson, A. L. Baker and George Carver), John J. L. Callahan (also known as J. F. Connolly), Trinidad International Petroleum, Ltd., a Nevada corporation, Wake Development Company, a Delaware corporation, and W. W. Wright, hereafter referred to as the defendants, whose true names to the Grand Jury are unknown, except as set out above, on or about October 4, 1939, in the Central Division of the Southern District of California and within the jurisdiction of this Court, did wilfully, unlawfully and feloniously cause to be carried through the United States mails certain securities, to-wit: certificates of one hundred shares of stock of Trinidad International Petroleum, Ltd., a corporation, and one hundred units of so-called Preferential Profit-Sharing Notes of Trinidad International Petroleum, Ltd., for the purpose of sale and delivery after sale to Adeline B. Skinner, no registration statement being in effect as to such securities, which said securities the defendants did sell and deliver to said Adeline B. Skinner and said carriage through the United States Mails was in the manner following, to-wit:

The defendants on or about October 4, 1939, did place and cause to be placed in the United States Post Office at Los Angeles, California, to be sent and delivered (and which was delivered) according to the directions thereon a postpaid envelope addressed to Adeline B. Skinner, 65 Main Street, Farmingdale, New Jersey, together with a letter of

transmittal enclosing said securities, a copy of which letter of transmittal was in words and figures substantially as follows, to-wit: [31]

October 4, 1939

Miss Adeline B. Skinner
6 West Main Street
Farmingdale, New Jersey

Dear Miss Skinner:

Confirming our letter of September 13 we enclose herewith Certificate C-214 for 100 shares of Trinidad International Petroleum, Ltd., stock and Certificate C-130 for 100 units of its Preferential Profit-Sharing notes.

At your convenience will you kindly sign the attached receipt and return in enclosed self-addressed envelope in order that our records may be complete.

We noted the absence of your endorsement on the Cashier's Check which you sent and we endorsed the same for you for deposit and the same cleared without difficulty.

Thanking you, we are,

Very truly yours,

J. M. D.

Pres.

contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America. (Section

5(a) (2) Securities Act of 1933, 15 U.S.C. Sec. 77e(a) (2).) [32]

COUNT TWELVE

And the Grand Jurors aforesaid, upon their oaths aforesaid, do further present:

That they do reallege and incorporate herein as if again set forth at length, the first count of this indictment except the last two paragraphs thereof;

That the defendants, on or about March 14, 1940, in the Central Division of the Southern District of California, and within the jurisdiction of this Court, then having devised the scheme and artifice in the first count described, for the purpose of executing the same, unlawfully and feloniously did knowingly place and cause to be placed in the United States Post Office at Los Angeles, California, to be sent and delivered by the Post Office establishment of the United States, according to the directions thereon, a letter enclosed in a postpaid envelope addressed to J. Arthur Hazelton, Mantua, New Jersey, which letter and envelope were in words and figures substantially as follows, to wit:

March 14, 1940

Dear Doctor Hazelton:

I have gotten a good clear picture of the situation from this end and I will return to New York before I leave for the properties. I have found I

can make as good time that way as any other and no more expense.

I received the \$300 okay and it sure comes in handy when you have so much traveling expense. As I told you before I figured right down to the rock bottom when I said I would only ask you for \$400 out of the \$625 difference due me. Of course I can appreciate I didn't give you much time but I didn't want to wait around once I had my plans made. Now I will just about be able to squeeze thru on my original budget and I will have to ask you to dig in for the other \$100. I don't like to put it this way but better come out straight than dodge around, we have too much at stake to mince words about a \$100.00. If I didn't need it I sure wouldn't ask you, but it's for our mutual benefit so I think you would want me to state facts. I will leave here about Sunday latest and be in New York Tuesday latest. I would like to leave as soon after I get there as possible, and I would like to have enough to be sure I got back. Now if you write me as follows I'll get your letter when I get in and I would like you to send me the other \$100.00. A check will be okay. I'll call you when I get in after seven o'clock, but I won't have time to spend to come down to Mantua. This trip will take a couple weeks and it's a good many thousand miles so you know it's going to cost something. I'm sorry to ask you to dig down but don't you think it's worth it now? With the \$100 I can just get by with what I have dug up besides. If you want to figure out the cost yourself and you see what it is. I don't want to

say anything to Phelps about me taking over the Research stock as he wants everybody to hold it as as they are preparing to do something new with the company. I wouldn't want him to know I took you out of it at least right now, so I don't want you to write me care of him. Write me A. L. Roberts, Suite 711, Broadway, New York City, and send me the \$100 check. I'll call you before I leave but I would like to get away at once I don't want to waste a day here and there for no good purpose.

Please understand I am just as much concerned as you are and I hope you won't think I am pressing you to hard but I simple can't revise the original way I figured this thing out. This will leave a difference of \$225 you will owe me which we can adjust later. Trusting I will receive your letter when I get back I am as always,

Sincerely yours,

A. L. ROBERTS

(Envelope)

[Cancelled Postage Stamp]

Dr. J. Arthur Hazelton

Mantua

New Jersey

[Stamped]: Los Angeles, Calif., Mar. 14, 11 a.m.
1940, Arcade Annex.

[Back of envelope, in longhand]: 1472 Broadway,
Room 721, Longacre Bldg., NYC, NY. A. L. Roberts,
1447 Broadway, Suite 721 NYC, NY.

contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America. [34]


COUNT THIRTEEN

And the Grand Jurors aforesaid, upon their oaths aforesaid, do further present:

That they do reallege and incorporate herein as if again set forth at length, the first count of this indictment except the last two paragraphs thereof;

That the defendants on or about March 7, 1940, in the Central Division of the Southern District of California, and within the jurisdiction of this Court, then having devised the scheme and artifice in the first count described, for the purpose of executing the same, unlawfully and feloniously did knowingly place and cause to be placed in the United States Post Office at Los Angeles, California, to be sent and delivered by the Post Office establishment of the United States, according to the directions thereon, a check enclosed in a post-paid envelope addressed to Philadelphia National Bank, Philadelphia, Pennsylvania, which check was in words and figures substantially as follows, to wit: [35]



		NO. 2619	
CASHIER'S CHECK		35-419	
TO THE ORDER OF		MULLICA HILL, N. J.	
J. R. Roberts		25 1940	
FARMERS NATIONAL BANK		PAID	
300.00		DOLLARS	
THE FARMERS NATIONAL BANK		35-419	
MULLICA HILL, N. J.		Arthur J. Roberts	

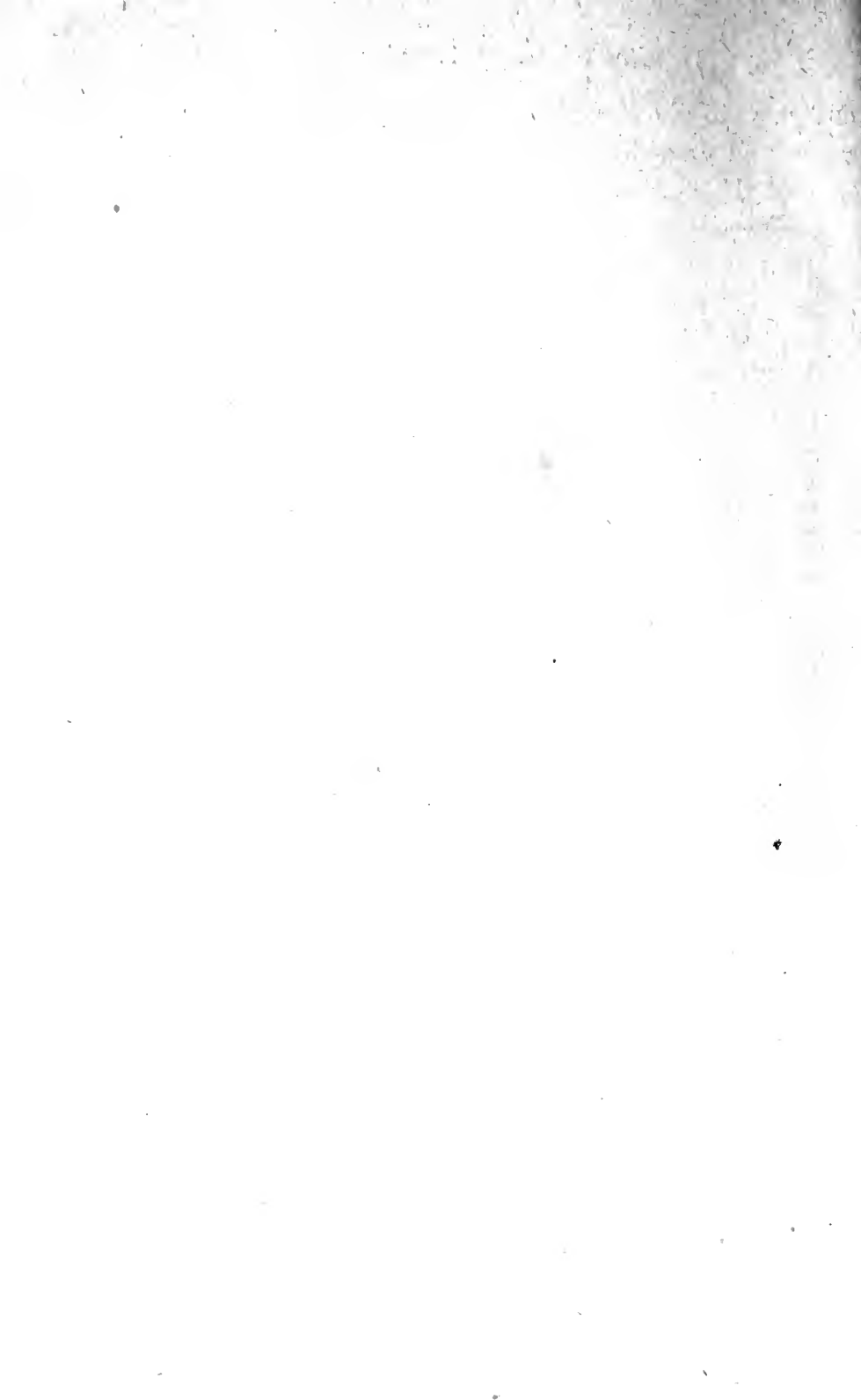
contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America. [36]

COUNT FOURTEEN

And the Grand Jurors aforesaid, upon their oaths aforesaid, do further present:

That they do reallege and incorporate herein as if again set forth at length, the first count of this indictment except the last two paragraphs thereof;

That the defendants, on or about May 8, 1939, in the Central Division of the Southern District of California, and within the jurisdiction of this Court, then having devised the scheme and artifice in the first count described, for the purpose of executing the same, unlawfully and feloniously did knowingly place and cause to be placed in the United States Post Office at Los Angeles, California, to be sent and delivered by the Post Office establishment of the United States, according to the directions thereon, a check enclosed in a postpaid envelope addressed to Bank of the Manhattan Company, New York, New York, which check was in words and figures substantially as follows, to wit:



YONKERS, N.Y.

May 8 1959 No. 9675

FIRST NATIONAL BANK

IN YONKERS
MAIN OFFICE - 24 SOUTH BROADWAY

PAY
TO THE
ORDER OF

Wake Development Corp.

Three hundred Ninety and 00/100

2090200 DOLLARS

Howard J. Langner



PAY TO THE ORDER OF
WAKE DEVELOPMENT CORP.
310-648

MAY 8 1959
16-17 BROADWAY, YONKERS, N.Y.
ALL PRIOR ENDORSEMENTS GUARANTEED
Pay Bank, Banker of First National Bank

Chas. E. Sping S. Branch
Bank of America
T. A. A.
COL. 310-119
Yonkers, Conn.

PAY TO THE ORDER OF
WAKE DEVELOPMENT CORP.
310-648
MAY 8 1959
16-17 BROADWAY, YONKERS, N.Y.
ALL PRIOR ENDORSEMENTS GUARANTEED
Pay Bank, Banker of First National Bank



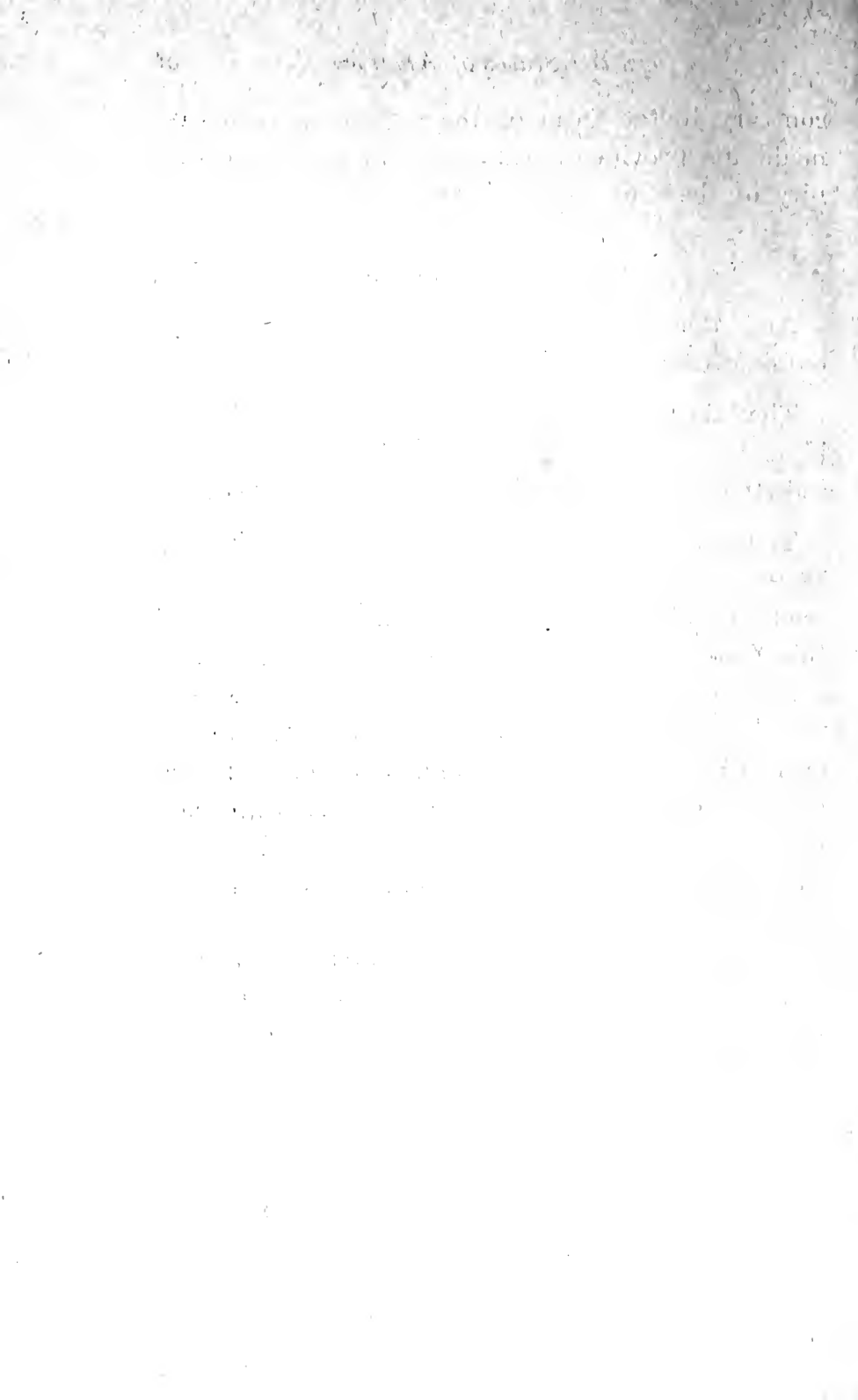
contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America. [38]

COUNT FIFTEEN

And the Grand Jurors aforesaid, upon their oaths aforesaid, do further present:

That they do reallege and incorporate herein as if again set forth at length, the first count of this indictment except the last two paragraphs thereof;

That the defendants, on or about December 19, 1940, in the Central Division of the Southern District of California and within the jurisdiction of this Court, then having devised the scheme and artifice in the first count described, for the purpose of executing the same, unlawfully and feloniously did knowingly place and cause to be placed in the United States Post Office at Los Angeles, California, to be sent and delivered by the Post Office establishment of the United States, according to the directions thereon, a check enclosed in a post-paid envelope addressed to Philadelphia National Bank, Philadelphia, Pennsylvania, which check was in words and figures substantially as follows, to-wit: [39]



THE MINERS' NATIONAL BANK 60-247

OF POTTSVILLE

**PAY TO THE
ORDER OF**

PAY TO THE
ORDER OF *Wife Discharge*
Theresa Hunter

\$1500. =

DOLLARS

Elizabeth J. Patton

Dr. Richard P. Chaffin, MD, FRCPC

310-648
MAKE DEVELOPMENT CO.
NATIONAL ZEPHYRUS ASSOCIATION
P.O. BOX 1000
ST. LOUIS, MO. 63103

Los Angeles, Cal.
JUL 10 1963
FBI - LOS ANGELES
7-10-63

TO THE ORDER OF
PAY
ANY BANK, BANKING OR TRUST CO.
ALL PRIOR ENDORSEMENTS GUARANTEED
THE FIRST NATIONAL BANK
3-1
3-1
DEC 24 1940
522374
PLEASE
BY NO.
REPORT



contrary to the form of the statute in such case made and provided against the peace and dignity of the United States of America. [40]

COUNT SIXTEEN

And the Grand Jurors aforesaid, upon their oaths aforesaid, do further present:

That they do reallege and incorporate herein as if again set forth at length, the first count of this indictment except the last two paragraphs thereof;

That the defendants, on or about January 26, 1939, in the Central Division of the Southern District of California, and within the jurisdiction of this Court, then having devised the scheme and artifice in the first count described, for the purpose of executing the same, unlawfully and feloniously did knowingly place and cause to be placed in the United States Post Office at Los Angeles, California, to be sent and delivered by the Post Office establishment of the United States, according to the directions thereon, a letter enclosed in a postpaid envelope addressed to E. Barrie Smith, 261 Kenyon Street, Hartford, Connecticut, which letter was in words and figures substantially as follows, to-wit: [41]

[Wake Development Company Letterhead]

January 26th, 1939

Mr. E. Barrie Smith
261 Kenyon Street
Hartford, Connecticut

Dear Sir:

We acknowledge receipt of your registered air-mail letter with enclosures of endorsed certificate 0779 for three hundred shares of Golden Quebec Mines, Limited, and your check in the amount of \$195.00.

Confirming the terms of our letter of January 19th, we will have transferred to your name 55-5/7th shares of Trinidad International Petroleum, Ltd., stock and 55-5/7ths units of Preferential Profit Sharing Notes of like concern, the same will be forwarded to you shortly.

Very truly yours,

A. FAULKNER

1/31/39

Secretary.

contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America. [42]

COUNT SEVENTEEN

And the Grand Jurors aforesaid, upon their oaths aforesaid do further present and show that the defendants, at a time to the Grand Jurors unknown but prior to the commission of the overt acts hereinafter alleged and continuously thereafter to the date hereof, in the Central Division of the

Southern District of California and within the jurisdiction of this Court, unlawfully and feloniously did conspire, combine, confederate, and agree together and with each other to commit divers offenses against the United States, to wit: the divers offenses charged against the said defendants in the divers preceding counts of this indictment and made offenses by Sections 17(a)(1) and 5(a)(2) of the Securities Act of 1933, as amended (15 U.S.C. Section 77q(a)(1) and e(a)(2)), and Section 215 of the Criminal Code (18 U.S.C. Sec. 338), the allegations concerning which sections are hereby incorporated by reference to such counts, and that to effect the object of said unlawful and felonious conspiracy the defendants, within the jurisdiction of this Court, did do and cause to be done divers overt acts including the following, to wit: the several acts of placing and causing to be placed letters, envelopes and securities in the United States Mails for mailing and delivery as in the preceding counts of this indictment alleged, as well as certain other overt acts as follows, to wit:

1. On or about July 1, 1940, at Los Angeles, California, defendant Wake Development Company received from Elizabeth T. Parsons, one of the persons to be defrauded, the sum of \$940.00 less \$1.61 bank collection charges, or a net amount of \$938.39.

2. On or about July 2, 1940, at Los Angeles, California, defendant Jacob Morris Danziger withdrew from the bank account of Wake Development

Company by a check signed by him as president of Wake Development Company, and [43] made payable to cash, the sum of \$625.00.

3. On or about July 2, 1940, at Los Angeles, California, defendant Jacob Morris Danziger, using the alias A. Levy, purchased for cash a Western Union Money Order in the sum of \$625.60 (two-thirds of \$938.38, the net amount received by Wake Development Company from Elizabeth T. Parsons the day before) payable to George Carleton (an alias used by defendant Warren C. Carter), address "Will call, Western Union, New York City", affixed the signature "A Levy, Hotel Alexandria" to an application for such Western Union Money Order, and caused such money order, less Western Union charges, to be transmitted to the addressee named therein.

4. On or about September 21, 1939, at Los Angeles, California, defendant Wake Development Company received from Adeline B. Skinner, one of the persons to be defrauded, the sum of \$300.00 less bank collection charges.

5. On or about September 22, 1939, at Los Angeles, California, defendant Jacob Morris Danziger caused the sum of \$230.00 to be withdrawn from the bank account of defendant Wake Development Company by a check payable to cash.

6. On or about September 22, 1939, at Los Angeles, California, defendant Jacob Morris Danziger, using the alias A. Levy, purchased for cash a Western Union Money Order in the sum of \$180.00 (ap-

proximately sixty per cent of \$300.00, the amount received by Wake Development Company from Adeline B. Skinner), payable to George Carleton (an alias used by defendant Warren C. Carter), address c/o Western Union, New York City, affixed the signature "A. Levy" to an application for such Western Union Money Order, and caused such money order, less Western Union charges, to be transmitted to the addressee named therein. [44]

7. On or about December 7, 1938, at Los Angeles, California, defendant Jacob Morris Danziger, using the alias T. Mack, purchased for cash a Western Union Money Order in the amount of \$102.56 payable to George Carleton (an alias used by defendant Warren C. Carter), address Hotel Willard, New York City, affixed the signature "T. Mack, Hotel Alexandria", to the application for such money order and caused such money order to be transmitted to the addressee named therein.

8. On or about December 26, 1940, at Los Angeles, California, defendant Jacob Morris Danziger, using the alias A. Levy, address 408 South Spring Street, Los Angeles, purchased six United States Postal Money Orders in the aggregate amount of \$530.00, payable to George Carleton (an alias used by defendant Warren C. Carter), address New York City, and affixed the signature "A. Levy" to each of six applications for such money orders.

9. On or about August 12, 1940, at Los Angeles, California, defendant Jacob Morris Danziger, using the alias "A. Levy, Hotel Alexandria", purchased

for cash a Postal Telegraph Money Order in the sum of \$646.58, payable to Mr. George Carleton (an alias used by defendant Warren C. Carter), address "Will call, New York City", affixed the signature "A. Levy" to the application for such money order and caused such money order, less Postal Telegraph charges, to be transmitted to the addressee named therein.

Contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America. (Title 18 U.S.C., Section 88.)

WILLIAM FLEET PALMER

United States Attorney [45]

A true bill

J. R. BREHM,

Foreman

Bail: Danziger, \$5,000; Carter, \$10,000; Callahan and Wright, \$1,000.

[Endorsed]: Indictment. Filed Dec. 30, 1941.

At a stated term, to-wit: The September Term, A. D. 1944, of the District Court of the United States of America, within and for the Central Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles on Monday the 20th day of November in the year of our Lord one thousand nine hundred and forty-four.

Present: The Honorable Ben Harrison
District Judge

No. 15,173—Crim.

UNITED STATES OF AMERICA,
Plaintiff,

vs.

JACOB MORRIS DANZIGER, WARREN C.
CARTER, JOHN J. L. CALLAHAN, et al.,
Defendants.

This cause coming on for arraignment and plea of defendants Jacob Morris Danziger, Warren C. Carter, and John J. L. Callahan; Ray H. Kinnison, Assistant U. S. Attorney, appearing as counsel for the Government; Defendant Danziger being present on bond; Defendant Carter being present in custody; Defendant Callahan being absent on bond; and Eloise Mellor, Court Reporter, being present and reporting the proceedings;

On motion of Defendants Danziger and Carter it is ordered that the cause be, and it hereby is, continued to December 4, 1944, at 9:30 A. M. for arraignment and plea of the said three defendants.

In the District Court of the United States for the
Southern District of California Central Division

No. 15173

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JACOB MORRIS DANZIGER, also known as J.
M. Danziger, et al,

Defendants.

MOTION TO DISMISS INDICTMENT FOR
WANT OF PROSECUTION, Etc.

And now comes the defendant Jacob Morris Danziger, also known as J. M. Danziger, for himself alone and not for any other defendant named in the above entitled proceedings, and says that the indictment herein, and each and every count thereof should be quashed and the within proceedings dismissed against him for want of prosecution.

In this connection, this defendant moves for dismissal upon the special grounds that:

I.

That the within indictment was filed on the 30th day of December 1941 at which time this defendant was a resident of the County of Los Angeles, State of California and that said residence has continued at all times up to the filing of this motion.

That the United States attorney at all times knew

the place of residence of this defendant and well knew that this [48] defendant could be notified of intention on the part of the United States attorney to arraign this defendant in accordance with the laws and Statutes thereto pertaining. But by reason of the prosecution's evident unwillingness to proceed with the cause, no step was taken by the prosecution to arraign this defendant at any time prior to the month of November 1944.

II.

That this intentional delay of almost three years from the time of the filing of the within indictment to the time of his proposed arraignment, violates the Sixth Amendment to the Constitution of the United States granting a defendant the right to a speedy trial and in the case of defendant herein, has very seriously prejudiced his rights by reason of the matters set forth in defendant's affidavit attached hereto and made a part of this motion.

Yours, etc.,

A. BRIGHAM ROSE

Attorney for Defendant

Jacob Morris Danziger, etc.

To: Charles H. Carr, Esq. United States Attorney

State of California

County of Los Angeles—ss.

Jacob Morris Danziger being first duly sworn deposes and says:

That he is one of the defendants named in the

indictment referred to in the within motion to dismiss etc.

That the within indictment was filed on the 30th day of December 1941 and that affiant was not notified to appear for arraignment at any time prior to the month of November 1944.

That affiant from the time of filing of said indictment up to the time of his notification to appear in November 1944 was an attorney and counsellor of law with an office in the city of Los Angeles and maintained a residence in the city of Los Angeles during the whole of said time. That affiant was listed in the city directory and in the telephone book and that the United States attorney's office at all times knew his whereabouts and where he could be reached but for approximately three years from the time of his indictment no attempt was made to arraign him.

That the indictment herein referred to to-wit: 15173 alleges a purported conspiracy wherein among other things it is sought to charge affiant with the acts of other defendants committed at various places throughout the United States. Said indictment expressly declaring page 2, line 15, "It was a part of the scheme that the defendants other than Jacob Morris Danziger, hereafter [50] generally called Danziger, would call upon the persons to be defrauded, which persons lived mostly in States in the Eastern part of the United States, and would represent that the stock and so-called Profit-Sharing notes of T.I.P., a Nevada corpora-

tion, which corporation they represented (among other things) was engaged in the oil business on the Island of Trinidad, British West Indies, and elsewhere, and whose securities they represented (among other things) were listed and traded on the Stock Exchange at London, England, at prices of par or higher (the par of the T.I.P. stock was \$5 per share, and the par of each note was one English pound), could be obtained by the persons to be defrauded at much lower prices by sending money and property directly, or through the defendants, to Wake Development Company, a Delaware corporation, or the offices of T.I.P., both at Los Angeles, California."

Affiant avers and submits that pending this interval of delay towit approximately three years several witnesses whose testimony is most vital and material to disprove the charges contained in the indictment against affiant have in the interval of delay died and their testimony is no longer available to him. Furthermore the companies involved and the locale of the properties and the persons who would be in a position to establish unqualifiedly that affiant at all times has acted in a bona fide and lawabiding manner are now places involved in the current war and that all of the delay herein referred to was not occasioned by any act on the part of affiant or with his consent.

Affiant from the inception of the proceedings culminating in the filing of the within indictment recognized that no conduct on his part in connec-

tion with any of the matters referred to in the within indictment could legitimately form the basis of any criminal proceeding against him and therefore assumed that the prosecution of said cause as against affiant was not pressed because of an unwillingness on the part of the United States attorney's office to [51] proceed with the cause as against him. Therefore, this belated attempt to proceed to arraign affiant after three years delay is a denial to affiant of Due Process and his right to a fair and speedy trial.

Wherefore affiant prays that the accompanying motion to dismiss and quash the within indictment be granted.

J. M. DANZIGER

Subscribed and Sworn to before me this 4th day of December, 1944.

[Seal]

EDMUND L. SMITH,

Clerk U. S. District Court Southern District of California

By JOHN A. CHILDRESS

Deputy

[Endorsed]: Filed Dec. 4, 1944. [52]

At a stated term, to-wit: The September Term, A. D. 1944, of the District Court of the United States of America, within and for the Central Division of the Southern District of California, held at the Court Room thereof, in the City of

Los Angeles on Monday the 11th day of December in the year of our Lord one thousand nine hundred and forty-four.

Present: The Honorable Ben Harrison,
District Judge

[Title of Cause.]

This cause coming on for arraignment and plea of defendant John J. L. Callahan; hearing on motion of defendant Jacob Morris Danziger to dismiss for want of prosecution; and for plea of defendants Jacob Morris Danziger and Warren C. Carter; V. P. Lucas, Esq., Assistant U. S. Attorney, appearing for the Government; A. Brigham Rose, Esq., appearing for the defendant Danziger; Ames Peterson, Esq., appearing for the defendant Carter; defendants Danziger and Carter being present; John Q. Bybee, Court Reporter, being present and reporting the proceedings.

Defendant Callahan being absent, it is ordered that this cause go off calendar for arraignment and plea as to said defendant.

The Court orders motion of defendant Danziger to dismiss for want of prosecution denied, and at the request of Attorney Rose, leave is granted to argue said motion and order denying motion is vacated. Attorney Rose now argues in support of said motion to dismiss. The Court makes a statement and orders said motion denied and an exception allowed to defendant Danziger.

The defendant Danziger now enters plea of not

guilty to each of the 17 counts of the indictment and the defendant Carter now enters plea of not guilty to each of the 17 counts of the indictment.

Attorney Lucas makes a statement. Attorney Peterson makes a statement.

It is ordered that this cause be, and it hereby is, transferred to the calendar of Judge McCormick and continued to December 18, 1944, at 10 A. M. for setting for trial of defendants Danziger and Carter. [53]

In the District Court of the United States in and
for the Southern District of California Central
Division

No. 15173—Cr.

UNITED STATES OF AMERICA,

Plaintiff,

v.

TRINIDAD INTERNATIONAL PETROLEUM,
Ltd., et al.,

Defendants.

ORDER FOR SUMMONS AND CITATION TO
ISSUE TO CORPORATIONS

A motion having been made in open court for the issuance of Summonses for pleading directed to the Trinidad International Petroleum, Ltd., a corporation organized under the laws of the State

of Nevada, and Wake Development Company, a corporation organized under the laws of the State of Delaware, and it appearing that all of said corporations having been indicted herein on the second Monday of September, 1941, and not having appeared or pleaded, it is

Ordered that Summonses issue to said corporations, directing that they appear for pleading to the indictment hereon on the 16th day of January, 1945, at 9:30 o'clock in the forenoon of that day.

Dated January 4, 1945.

CLAUDE McCOLLOCH

United States District Judge.

[Endorsed]: Filed Jan. 4, 1945. [54]

At a stated term, to-wit: The September Term, A. D. 1944, of the District Court of the United States of America, within and for the Central Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles on Saturday the 6th day of January

in the year of our Lord one thousand nine hundred and forty-five.

Present: The Honorable Claude McColloch,
District Judge

No. 15,173—Crim.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JACOB M. DANZIGER, et al.,

Defendants.

This cause coming on for pre-trial conference; V. P. Lucas, Assistant U. S. Attorney, appearing as counsel for the Government; Ames Peterson, Esq., appearing as counsel for Defendant Carter; A. Brigham Rose, Esq., appearing as counsel for Defendant Danziger; and Myrtle Bennallack, Court Reporter, being present and reporting the proceedings:

Attorney Rose makes a statement. The Court inquires if the defendants are present and Attorney Lucas replies that they are not. The Court makes a statement regarding the position of the Court in the absence of the defendants. Attorney Rose proceeds with his statement. It is ordered that counsel proceed forthwith before Judge McCormick for further proceedings.

At 10:30 A. M. court reconvenes in this case before Judge McCormick, and all being present as before, Attorney Rose makes a statement and Attor-

ney Lucas makes a reply statement. Attorney Peterson makes a statement and Attorney Rose makes a further statement.

It is ordered that trial date of January 16, 1945, at 10 A. M., heretofore set before Judge Claude McColloch stand and that the trial proceed on the said date before Judge McColloch.

At 10:50 A. M. court adjourns. [55]

At a stated term, to-wit: The September Term, A. D. 1944, of the District Court of the United States of America, within and for the Central Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles on Wednesday the 10th day of January in the year of our Lord one thousand nine hundred and forty-five.

Present: The Honorable Claude McColloch,
District Judge

[Title of Cause.]

This cause coming on for change of plea of defendant Warren C. Carter; V. P. Lucas, Assistant U. S. Attorney, appearing as counsel for the Government; Ames Peterson, Esq., appearing as counsel for the said defendant, who is present; and Myrtle Bennallack, Court Reporter, being present and reporting the proceedings:

Respective counsel appearing make statements.

Defendant Warren C. Carter, with consent of

the Court and counsel for the Government, withdraws his plea of not guilty, heretofore entered, to count 17 of the Indictment, and now enters plea of guilty to count 17, and the said plea is accepted. The defendant is remanded into custody and no date is fixed for sentence at this time. [56]

In the District Court of the United States in and
for the Southern District of California Central
Division

No. 15173—Cr.

UNITED STATES OF AMERICA,

Plaintiff,

v.

TRINIDAD INTERNATIONAL PETROLEUM,
Ltd., et al.,

Defendant.

SUMMONS AND CITATION

You Are Hereby cited and summoned to be and appear before the United States District Court for the Southern District of California at Los Angeles, California, on January 16, 1945, at the hour of 9:30 A. M. in the Court Room of the Honorable Paul J. McCormick, Judge of said Court, to answer a charge made against you by indictment of the Grand Jury for the United States of America, empaneled and sworn in the Central Division of the Southern District of California on the second Monday of September, 1941, for the violation of the

Securities Act, as more fully appears from the Indictment filed in the above-entitled action in the above-entitled court.

Witness the Honorable Paul J. McCormick, Judge of the United States District Court for the Southern District of California, Central Division, at Los Angeles, California, this 4th day of January, 1945.

[Seal]

EDMUND L. SMITH,

Clerk United States District Court for the Southern District of California.

By E. N. FRANKENBERGER

Deputy. [57]

RETURN ON SERVICE OF WRIT

United States of America,
Sou. District of Calif.—ss:

I hereby certify and return that I served the annexed Summons & Citation on the therein-named Trinidad International Petroleum, Ltd., et al. By serving Florence McCurdy, Secretary for Jacob M. Danziger, Authorized to Accept Legal Service by handing to and leaving a true and correct copy thereof with her personally at Los Angeles in said District on the 6 day of Jan, 1945.

ROBERT E. CLARK

U. S. Marshal.

By ANDREW BAZAR

Deputy.

[Endorsed]: Filed Jan. 16, 1945. [58]

In the District Court of the United States in and
for the Southern District of California Central
Division

No. 15173—Cr.

UNITED STATES OF AMERICA

Plaintiff,

v.

WAKE DEVELOPMENT COMPANY, et al
Defendant.

SUMMONS AND CITATION

You Are Hereby cited and summoned to be and appear before the United States District Court for the Southern District of California at Los Angeles, California, on January 16, 1945, at the hour of 9:30 A. M. in the Court Room of the Honorable Paul J. McCormick, Judge of said Court, to answer a charge made against you by indictment of the Grand Jury for the United States of America, empaneled and sworn in the Central Division of the Southern District of California on the second Monday of September, 1941, for the violation of the Securities Act, as more fully appears from the Indictment filed in the above-entitled action in the above-entitled court.

Witness the Honorable Paul J. McCormick, Judge of the United States District Court for the Southern District of California, Central Division,

at Los Angeles, California, this 4th day of January, 1945.

[Seal]

EDMUND L. SMITH,

Clerk United States District Court for the Southern
District of California.

By E. N. FRANKENBERGER,

Deputy.

A. B. [59]

RETURN ON SERVICE OF WRIT

United States of America,
Sou. District of Calif.—ss:

I hereby certify and return that I served the annexed Summons & Citation on the therein-named Wake Development Company By Serving Florence McCurdy Secretary for Jacob M. Danziger, Authorized to Accept Legal Service by handing to and leaving a true and correct copy thereof with her personally at Los Angeles in said District on the 6 day of Jan., 1945.

ROBERT E. CLARK

U. S. Marshal.

By ANDREW BAZAR

Deputy.

[Endorsed]: Filed Jan. 16, 1945. [60]

At a stated term, to-wit: The September Term, A. D. 1944, of the District Court of the United States of America, within and for the Central Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles on Tuesday the 16th day of January in the year of our Lord one thousand nine hundred and forty-five.

Present: The Honorable Claude McColloch,
District Judge.

No. 15,173-Crim.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JACOB MORRIS DANZIGER, et al.,

Defendants.

This cause coming on for arraignment and plea of defendants Trinidad International Petroleum, Ltd., and Wake Development Co., and for trial of defendant Jacob Morris Danziger on counts 1 to 17 inclusive, and for trial of defendant Warren C. Carter on counts 1 to 16 inclusive, the said defendant Carter having pleaded guilty to count 17; V. P. Lucas, Assistant U. S. Attorney, appearing as counsel for the Government; A. Brigham Rose, Esq., appearing as counsel for Defendant Danziger; Ames Peterson, Esq., appearing as counsel for Defendant Carter; Both of the said defendants being present; and Sam Goldstein, Court Reporter, being

present and reporting the testimony and the proceedings:

The Court and counsel discuss the matter of service of citation for plea of defendants Trinidad International Petroleum, Ltd., and Wake Development Co. Attorney Rose makes a statement relative to affidavit filed in support of objections to proceed to trial. The Court and counsel discuss certain matters and the Court makes a statement re its position in proceeding to trial. It is ordered that this cause be, and it hereby is, continued to 2 p. m. today for further proceedings and that all witnesses return at that time. It is ordered that Defendant Carter be returned to custody and that Defendant Danziger be continued on his present bail. [61]

Court recesses at 10:30 a. m. until 2 p. m. At 2:05 p. m. court reconvenes and all being present as before, Attorney Rose makes a statement.

The Court overrules objections of Defendant Danziger to proceed with the trial and notes an exception.

The Court appoints A. Brigham Rose, Esq., to act as counsel for the corporate defendants and directs that a plea of not guilty be entered as to the said defendants, Trinidad International Petroleum, Ltd., and Wake Development Co.

The Court orders that trial proceed against all defendants on all counts to which pleas of not guilty have been entered.

Attorney Lucas moves that counts 1 to 16, inclusive, of the Indictment be dismissed as to the defendant Warren C. Carter. Counsel for Defendant Danziger objects to the said motion. The Court grants the said motion and allows an exception to the defendant Danziger.

The jury waiver as to defendant Jacob M. Danziger is signed and ordered filed. Attorney Rose orally waives jury trial as to the defendants Trinidad International Petroleum, Ltd., and Wake Development Company, and the Court accepts said oral waiver.

Attorney Peterson is excused and retires from the court room.

William Ladd is called, sworn, and testifies for the Government.

Attorney Lucas moves for dismissal of the Indictment against defendants John J. L. Callahan and W. W. Wright and the Court so orders.

Witness Ladd testifies further.

U. S. Exhibits 1 to 15, inclusive, are offered and admitted into evidence subject to being later connected up. There is no cross-examination of Witness Ladd. At 3:15 p. m. court recesses. At 3:35 p. m. court reconvenes and all being present as before, Attorney Rose makes a statement re exceptions to rulings on admissibility of exhibits offered by the Government.

Florence Hedge is called, sworn, and testifies for the Government. U. S. Exhibit 16 is offered and

admitted into evidence subject to being connected up. Photostatic copies of said exhibit may be [62] substituted for the originals at the conclusion of the trial. Witness Hedge testifies further. U. S. Exhibit 17 is offered and admitted into evidence subject to being connected up.

Douglas Wilkes is called, sworn, and testifies for the Government. U. S. Exhibits 18 and 19 are offered and admitted into evidence, subject to being connected up. Counsel stipulate as to testimony of Witness Wilkes re certain documents. U. S. Exhibits 20, 21, and 22 are offered and admitted into evidence subject to being connected up.

It is ordered that further trial be, and it hereby is continued to 10 a. m., January 17, 1945. [63]

At a stated term, to-wit: The September Term, A. D. 1944, of the District Court of the United States of America, within and for the Central Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles, on Wednesday, the 17th day of January, in the year of our Lord one thousand nine hundred and forty-five.

Present: The Honorable: Claude McColloch,
District Judge.

[Title of Cause.]

This cause coming on for further trial of defendants Jacob Morris Danziger, the Trinidad

International Petroleum, Ltd., and the Wake Development Co.; V. P. Lucas, Assistant U. S. Attorney, appearing as counsel for the Government; A. Brigham Rose, Esq., appearing as counsel for the said defendants on trial; and Sam Goldstein, Court Reporter, being present and reporting the testimony and the proceedings:

Dr. J. Arthur Hazelton is called, sworn, and testifies for the Government. U. S. Exhibit 23 is offered and admitted in evidence; U. S. Exhibit 24 is marked for identification and then offered and received in evidence; U. S. Exhibits 25 and 26, respectively, are offered and received in evidence; U. S. Exhibit 27 is marked for identification; U. S. Exhibit 28 is offered and received in evidence; U. S. Exhibits 29 and 30 are offered and received in evidence; and U. S. Exhibit 31 is marked for identification.

At noon court recesses until 2 P. M. At 2:18 P. M. court reconvenes herein and all being present as before, Witness Dr. J. Arthur Hazelton resumes the stand and testifies further. U. S. Exhibits 32, 33, and 34, respectively, are offered and received in evidence. U. S. Exhibit No. 17 is re-offered. Attorney Rose objects to the said exhibit being received in evidence and states the grounds thereof. The objection is overruled and the entire exhibit is [64] admitted into evidence as U. S. Exhibit 17.

U. S. Exhibits 35 and 36 are offered and received in evidence.

At 3:15 P. M. court recesses. At 3:26 P. M. court reconvenes herein and all being present as before, Witness Hazelton testifies further.

U. S. Exhibit 37 is offered and received in evidence.

Miss Adeline B. Skinner is called, sworn, and testifies for the Government. It is ordered that the cause be, and it hereby is, continued to 10 A. M., January 18, 1945, for further trial. [65]

At a stated term, to-wit: The September Term, A. D. 1944, of the District Court of the United States of America, within and for the Central Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles, on Thursday, the 18th day of January, in the year of our Lord one thousand nine hundred and forty-five.

Present: The Honorable Claude McColloch,
District Judge.

[Title of Cause.]

This cause coming on for further trial of defendants Jacob M. Danziger, Trinidad International Petroleum, Ltd., and Wake Development Company; V. P. Lucas, Esq., Assistant U. S. Attorney, appearing for the Government; A. Brigham Rose, Esq., appearing for defendants on trial; Samuel Goldstein, Court Reporter, being present

and reoprtng the proceedings; the defendant Danziger being present:

Miss Adeline B. Skinner resumes the stand and testifies further for the Government.

U. S. Exhibits Nos. 38, 39, 40, 42, 43 and 44 are admitted into evidence and No. 41 is marked for identification.

At 11:05 A. M. Court recesses and reconvenes at 11:16 A. M.; all present as before.

Harold J. McCoy is called, sworn, and testifies for the Government.

U. S. Exhibits Nos. 45 to 53, inclusive, are admitted into evidence.

At 12:03 P. M. Court recesses to 2 P. M. Court reconvenes at 2 P. M.; all present as before. Harold J. McCoy resumes the stand and testifies further. U. S. Exhibits Nos. 54 and 55 are admitted into evidence.

Witness McCoy testifies further on cross-examination and the witness is excused.

Attorney Lucas now offers into evidence transcript of testimony of defendant Jacob M. Danziger before the Securities & Exchange Commission [66] and requests permission to read same into the record. Attorney Rose makes a statement and objects to the introduction of said testimony. The Court passes the matter temporarily and directs counsel to proceed with other testimony.

Allen G. Mainland is called, sworn, and testifies for the Government.

Attorney Lucas offers file of correspondence which the witness testified he received from Mr. Danziger. Attorney Rose asks permission to examine the witness on voir dire and the Court grants said permission and Attorney Rose examines on voir dire.

Attorney Rose objects to the offer of the exhibit and states the grounds of his objection. Attorney Lucas makes a statement. The documents are ordered admitted into evidence as U. S. Exhibit No. 56 and the exhibit is so marked.

Witness Mainland testifies further and U. S. Exhibit No. 57 is received into evidence. The witness testifies further and U. S. Exhibits Nos. 58 and 59 are admitted into evidence.

At 3:40 P. M. Court recesses and reconvenes at 3:50 P. M. Witness Mainland resumes the stand and testifies further.

U. S. Exhibits Nos. 60 to 69, inclusive, are admitted into evidence. U. S. Exhibits Nos. 70 to 73, inclusive, are marked for identification. U. S. Exhibits Nos. 74 to 80, inclusive, are admitted into evidence.

At 4:55 P. M. Court recesses herein to 10 A. M. January 19, 1945, for further trial, and Court adjourns. [67]

At a stated term, to-wit: The September Term, A. D. 1944, of the District Court of the United States of America, within and for the Central Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles, on Friday, the 19th day of January, in the year of our Lord one thousand nine hundred and forty-five.

Present: The Honorable: Claude McColloch,
District Judge.

[Title of Cause.]

This cause coming on for further trial of the defendants Jacob M. Dänziger, Trinidad International Petroleum, Ltd., and Wake Development Company; V. P. Lucas, Esq., Assistant U. S. Attorney, appearing for the Government; A. Brigham Rose, Esq., appearing for the defendants on trial; Samuel Goldstein, Court Reporter being present and reporting the proceedings; the defendant being present on bond;

Attorney Rose makes a statement re presentation of testimony of defendant Dänziger taken before Allen G. Mainland of the Securities & Exchange Commission at Los Angeles, Calif., on June 5, 6, 9 and 16, 1941, and stipulates that the transcript of said testimony is true and correct to the best of the ability of the transcriber. Attorney Lucas now reads said testimony, and U. S. Exhibits Nos. 81 and 82 are admitted into evidence. Attorney Lucas resumes reading testimony, and at 12

o'clock noon Court recesses to 2 P. M. Court reconvenes at 2 P. M.; all present as before. Attorney Rose relieves Attorney Lucas and reads testimony of defendant Danziger. At 3:50 P. M. Court recesses and reconvenes at 4:04 P. M.; all present as before.

Attorney Lucas offers in evidence original letter from J. M. Danziger, President, Wake Development Company, dated November 13, 1939, to Mrs. Florence S. Lawyer, and same is admitted into evidence and attached to and made a part of U. S. Exhibit 56, over objection by Attorney Rose; exception noted.

Attorney Rose continues reading of testimony.

Attorney Lucas offers in evidence original letter from A. Faulkner dated May 8, 1939, to Mrs. Florence S. Lawyer. Over objection by Attorney Rose, the document is admitted into evidence and attached to and made a part of Exhibit 56; exception noted.

Attorney Rose continues reading of testimony, and U. S. Exhibit 83 is marked for identification. U. S. Exhibit 84 is marked for identification. Later, U. S. Exhibits 83 and 84 for identification are offered and admitted into evidence, and are attached to and made a part of Exhibit 56.

Attorney Lucas now continues reading of testimony of defendant Danziger. At 4:05 P. M. Court recesses and reconvenes at 4:15 P. M.; all present as before.

Attorney Lucas continues reading of testimony, and U. S. Exhibit 70 for identification is offered in evidence by Attorney Lucas. Attorney Rose makes a statement and examines Exhibit 70 for identification, and objects to its introduction into evidence. The objection is overruled and the exhibit is admitted into evidence as U. S. Exhibit 70; exception noted. Additional documents are now offered and admitted into evidence and attached to and made a part of Exhibit 70.

At 5 P. M. Court adjourns to 9 A. M. January 20, 1945, for further trial herein. [69]

At a stated term, to-wit: The September Term, A. D. 1944, of the District Court of the United States of America, within and for the Central Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles, on Saturday, the 20th day of January, in the year of our Lord one thousand nine hundred and forty-five.

Present: The Honorable: Claude McColloch,
District Judge.

[Title of Cause.]

This cause coming on for further trial of defendants Jacob M. Danziger, Trinidad International Petroleum Ltd., and the Wake Development Company; V. P. Lucas, Assistant U. S. Attorney, appearing as counsel for the Government; A. Brig-

ham Rose, Esq., appearing as counsel for the said defendants on trial; and Sam Goldstein, Court Reporter, being present and reporting the testimony and proceedings:

Attorney Lucas continues reading testimony of Defendant Danziger taken before the Securities and Exchange Commission.

Allen G. Mainland resumes the stand and testifies further.

U. S. Exhibit 72 for identification is offered in evidence by Attorney Lucas. Attorney Rose objects to its introduction and states the grounds thereof. Objections are overruled and documents are admitted in evidence and marked U. S. Exhibit 72.

U. S. Exhibit 85 is admitted in evidence. U. S. Ex. 73 for identification is received in evidence.

At 10:15 A.M. court recesses. At 10:35 A.M. court reconvenes and all being present as before, Attorney Lucas continues reading testimony. U. S. Exhibit 86 is offered and admitted in evidence.

Allen G. Mainland testifies further.

Attorney Lucas continues reading testimony and offers in evidence certain additional documents as part of U. S. Exhibit 85, [70] and the said additional documents are admitted in evidence and attached to U. S. Exhibit 85.

U. S. Exhibits 85-A, 87, 88, and 89 are offered and admitted in evidence. U. S. Exhibits 90 and

91 are marked for identification. U. S. Exhibit 71 for Ident. is offered and admitted in evidence. U. S. Exhibit 92 is offered and admitted in evidence.

The Court and counsel discuss certain matters re testimony of handwriting expert.

It is ordered that the cause be, and it hereby is continued to 10 A.M., January 23, 1945, for further trial. [71]

At a stated term, to-wit: The September Term, A. D. 1944, of the District Court of the United States of America, within and for the Central Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles, on Tuesday, the 23rd day of January, in the year of our Lord one thousand nine hundred and forty-five.

Present: The Honorable: Claude McColloch,
District Judge.

[Title of Cause.]

This cause coming on for further trial of the defendants J. M. Danziger, Trinidad International Petroleum, Ltd., and Wake Development Company; V. P. Lucas, Esq., Assistant U. S. Attorney, appearing for the Government; A. Brigham Rose, Esq., appearing for the defendants on trial; Samuel Goldstein, Court Reporter, being present

and reporting the proceedings; the defendant Danziger being present:

Allen G. Mainland, heretofore sworn, resumes the stand and testifies further.

U. S. Exhibit No. 93 is admitted into evidence. At 10:55 A.M. Court recesses and reconvenes at 11:15 A.M.; all present as before. Witness Mainland testifies further.

U. S. Exhibit No. 94 is admitted into evidence.

At 11:55 A.M. Court recesses to 1:45 P.M. Court reconvenes at 1:45 P.M.; all present as before. Witness Mainland testifies further.

Defendants' Exhibits A, B, C, D and E are admitted into evidence.

Attorney Rose makes offer of entire investigation file of the Securities & Exchange Commission. The offer is rejected.

At 2:44 P.M. Court recesses and reconvenes at 2:55 P.M.; all present as before.

Witness Mainland testifies further. Defendants' Exhibit F is admitted into evidence. [72]

James E. P. Conway is called, sworn, and testifies for the Government.

Counsel stipulate as to signatures and handwriting on various Government's exhibits, as reflected by the Court Reporter's notes, to-wit: Exhibits 14, 15, 16, 18, 19, 20, 21, 22, 38, 39, 44, 54, 55, 65 and 75.

U. S. Exhibits 95 and 96 are marked for identification.

Willard Eugene Warren (known in the indictment as Warren C. Carter) is called sworn, and testifies for the Government.

At 4:10 P.M. Court recesses herein to 10 A.M. January 24, 1945.

At a stated term, to-wit: The September Term, A. D. 1944, of the District Court of the United States of America, within and for the Central Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles, on Wednesday, the 24th day of Jauary, in the year of our Lord one thousand nine hundred and forty-five.

Present: The Honorable: Claude McColloch,
District Judge.

[Title of Cause.]

This cause coming on for further trial of defendants Jacob M. Danziger, Trinidad International Petroleum, Ltd., and Wake Development Company; V. P. Lucas, Assistant U. S. Attorney, appearing as counsel for the Government; A. Brigham Rose, Esq., appearing as counsel for the said defendants on trial; and Sam Goldstein, Court Reporter, being present and reporting the testimony and the proceedings:

Attorney Lucas makes a statement. Attorney

Rose asks that a group of papers be made a part of Defendants' Exhibit A, and it is so ordered. Counsel enter into a certain stipulation and the Witness Conway is excused.

Willard Eugene Warren, heretofore sworn, resumes the stand and testified further. U. S. Exhibit 97 is marked for identification and later offered into evidence and the offer is now withdrawn. The witness, Willard Eugene Warren, testifies further concerning said exhibit. U. S. Exhibit 97 for identification is now admitted into evidence. U. S. Exhibits 98 and 99, respectively, are offered and admitted in evidence.

At 10:50 A.M. court recesses. At 11:02 A.M. court reconvenes.

Witness Warren resumes the stand and testifies further. U. S. Exhibits 100, 101, and 102 are offered and admitted in evidence.

U. S. Exhibit 41 for Identification is offered in evidence by Attorney Lucas, and is admitted into evidence over objection by Attorney Rose. [74]

U. S. Exhibit 103 is offered and admitted in evidence.

At 11:45 A.M. court recesses until 1:45 P.M. At 1:47 P.M. court reconvenes.

U. S. Exhibits 104 and 105, respectively, are received in evidence.

V. P. Lucas is sworn and makes a statement under oath.

Witness Warren testifies further. At 3 P.M. court recesses. At 3:16 P.M. court reconvenes. Witness Warren resumes the stand and testifies further.

U. S. Exhibit 85-B is admitted into evidence. An envelope addressed to George Carlton is received in evidence and made a part of U. S. Exhibit 105.

U. S. Exhibit 106 is offered and admitted in evidence.

Carbon copy of letter dated Nov. 13, 1939, with addressee cut out is admitted in evidence, and made a part of U. S. Exhibit 56, Lawyer correspondence.

Letter dated January 9, 1939, to Harry F. Pitts, signed A. Faulkner, Secretary, is received in evidence and made part of U. S. Exhibit 58.

At 4:27 P.M. court recesses in the trial of this cause until 10 A.M., January 25, 1945. [75]

At a stated term, to-wit: The September Term, A. D. 1944, of the District Court of the United State of America, within and for the Central Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles, on Thursday, the 25th day of January, in

the year of our Lord one thousand nine hundred and forty-five.

Present: The Honorable: Claude McColloch,
District Judge.

[Title of Cause.]

This cause coming on for further trial of defendants; V. P. Lucas, Assistant U. S. Attorney, appearing as counsel for the Government; A. Brigham Rose, Esq., appearing as counsel for the defendants on trial; and Sam Goldstein, Court Reporter, being present and reporting the testimony and the proceedings:

Willard Eugene Warren resumes the stand and testifies further. Attorney Lucas offers certain documents into evidence. Witness Warren is temporarily withdrawn and Allen G. Mainland resumes the stand and testifies. The documents previously offered are admitted into evidence over objection and attached to and made a part of U. S. Ex. 59.

Witness Warren resumes the stand and testifies further.

Attorney Lucas offers certain documents in evidence. The documents are admitted into evidence over objection and attached to and made a part of U. S. Ex. 61. Stock Certificate No. 1743 of the Great Eastern Natural Gas Co. is offered and admitted in evidence as part of U. S. Ex. 61 over objection by Attorney Rose.

At 11:05 A. M. court recesses. At 11:19 A.M. court reconvenes.

Witness Warren resumes the stand and testifies further.

At 11:55 A.M. court recesses to 2 P.M. At 2:07 P.M. court reconvenes and Willard Eugene Warren resumes the stand and testifies further.

Attorney Lucas offers a certain letter in evidence as part of [76] U. S. Ex. 27 and said letter is received in evidence and attached to and made a part of U. S. Ex. 27.

At 3:10 P.M. court recesses. At 3:20 P.M. court reconvenes. Witness Warren continues testimony. U. S. Ex. 96 for identification is offered and admitted in evidence. U. S. Ex. 95 for identification is offered and admitted in evidence. Witness Warren is withdrawn temporarily.

C. E. Webster is called, sworn, and testifies for the Government.

Witness Warren resumes the stand and testifies further. U. S. Exhibits 107, 108, and 109 are offered and admitted in evidence. U. S. Exhibit 108 is now withdrawn, and U. S. Exhibit 110 is offered and admitted in evidence.

At 4:30 P.M. it is ordered that this cause be, and it hereby is, continued to January 26, 1945, at 10 A.M., for further trial. [77]

At a stated term, to-wit: The September Term, A. D. 1944, of the District Court of the United States of America, within and for the Central Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles, on Friday, the 26th day of January, in the year of our Lord one thousand nine hundred and forty-five.

Present: The Honorable: Claude McColloch,
District Judge.

[Title of Cause.]

This cause coming on for further trial of defendants Jacob M. Danziger, Trinidad International Petroleum, Ltd., and Wake Development Company; V. P. Lucas, Assistant U. S. Attorney, appearing as counsel for the Government; defendant Jacob Danziger being present with his attorney, Ames Peterson, Esq.; and Sam Goldstein, Court Reporter, being present and reporting the testimony and the proceedings;

Willard Eugene Warren resumes the stand and testifies further. U. S. Exhibit 111 is offered and admitted in evidence.

Witness Warren now testifies on cross-examination. Attorney Peterson, representing the defendant and witness Willard Eugene Warren, makes a statement and the said witness testifies further. Defendants' Exhibit G is offered and admitted into evidence.

At 11 A.M. court recesses. At 11:15 A.M. court

reconvenes. Witness Warren testifies further. At noon court recesses until 1:30 P.M.

At 1:30 P.M. court reconvenes, and counsel for the Government and the reporter being present as before, Defendant Danziger and counsel being absent; at 1:38 P.M. Defendant Danziger and counsel being present it is ordered that the trial proceed.

Willard Eugene Warren resumes the stand and testifies further on cross-examination. Defendants' Exhibits H, I, and J are marked for identification. Defendants' Exhibits K, L, M, N, and O are offered and admitted into evidence. [78]

At 2:50 P.M. court recesses. At 3 P.M., court reconvenes.

Witness Warren resumes the stand and testifies further.

At 4 P.M. it is ordered that the cause be, and it hereby is, continued to 2 P.M., January 29, 1945, for further trial.

At a stated term, to-wit: The September Term, A. D. 1944, of the District Court of the United States of America, within and for the Central Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles on Monday the 29th day of January in the year of our Lord one thousand nine hundred and forty-five.

Present: The Honorable Claude McColloch,
District Judge

[Title of Cause.]

This cause coming on for further trial of defendants Jacob M. Danziger, Trinidad International Petroleum, Ltd., and Wake Development Co.; V. P. Lucas, Assistant U. S. Attorney, appearing as counsel for the Government; A. Brigham Rose, Esq., appearing as counsel for the defendants on trial; and Sam Goldstein, Court Reporter, being present and reporting the testimony and the proceedings; at 2:20 P. M. court convenes herein; Defendant Danziger present.

Willard Eugene Warren resumes the stand and testifies further. Defendants' Exhibit P is offered and admitted in evidence. Defendants' Exhibits Q and R are marked for identification. U. S. Ex. 108, heretofore marked in evidence and later withdrawn, is now reoffered and admitted into evidence as U. S. Ex. 108. U. S. Exhibits 112 and 113 are offered and admitted into evidence.

At 3:32 P. M. the Government rests.

At 3:34 P. M. it is ordered that this cause be, and it hereby is, continued to 10 A. M., January 30, 1945. [80]

At a stated term, to-wit: The September Term, A. D. 1944, of the District Court of the United States of America, within and for the Central

Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles on Tuesday the 30th day of January in the year of our Lord one thousand nine hundred and forty-five.

Present: The Honorable Claude McColloch,
District Judge

[Title of Cause.]

This cause coming on for further trial of defendants Jacob M. Danziger, Trinidad International Petroleum, Ltd, and Wake Development Company; V. P. Lucas, Assistant U. S. Attorney, appearing as counsel for the Government; A. Brigham Rose, Esq., appearing as counsel for the said defendants on trial; and Samuel Goldstein, Court Reporter, being present and reporting the proceedings:

Attorney Rose makes a statement and asks that the defendant Willard Eugene Warren be excluded from the court room and states the grounds of his motion. Attorney Lucas objects to the motion and argues. The Court denies the motion.

Attorney Rose now moves to quash the return of service of summons or citation on defendant Trinidad International Petroleum, Ltd, and states the grounds of said motion and argues. Attorney Lucas argues in opposition to said motion. Attorney Rose argues further. The Court reserves ruling on the motion.

Attorney Rose asks that it be deemed that the same motion and on the same grounds is directed on behalf of the defendant Wake Development

Company. The Court so orders and reserves decision on the motion to quash as to said defendant.

Attorney Rose makes a further statement as to the Indictment and moves to quash the Indictment and states the grounds thereof. Attorney Lucas argues in opposition. The Court reserves decision [81] on the motion.

Attorney Rose makes a further statement as to count one of the Indictment and the lack of proof in the testimony.

At 11 A. M. court recesses. At 11:12 A. M. court reconvenes.

Attorney Rose resumes his argument, and moves in behalf of Defendant Danziger, individually, that count one of the Indictment be quashed and dismissed and states the grounds thereof. Attorney Lucas argues in opposition to the motion to quash the Indictment in its entirety.

At 11:55 A. M. court recesses until 2 P. M. At 2:04 P. M. court reconvenes.

Attorney Rose makes a statement re Defendants' Exhibit A.

Attorney Lucas resumes his argument.

At 3 P. M. court recesses. At 3:10 P. M. court reconvenes. Attorney Lucas resumes his argument.

At 4:10 P. M. court recesses in the trial of this cause until 10 A. M., January 31, 1945. [82]

At a stated term, to-wit: The September Term, A. D. 1944, of the District Court of the United

States of America, within and for the Central Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles, on Wednesday, the 31st day of January, in the year of our Lord one thousand nine hundred and forty-five.

Present: The Honorable: Claude McColloch,
District Judge.

[Title of Cause.]

This cause coming on for further trial of defendants Jacob M. Danziger, Trinidad International Petroleum, Ltd., and Wake Development Company; V. P. Lucas, Assistant U. S. Attorney, appearing as counsel for the Government; A. Brigham Rose, Esq., appearing as counsel for the said defendants on trial; and Samuel Goldstein, Court Reporter, being present and reporting the proceedings.

Attorney Lucas resumes argument. At 10:16 A.M. Attorney Rose argues further.

The Court reserves ruling on motion to dismiss count one as to Defendant Danziger. At 10:54 A.M. court recesses. At 11:06 A.M. court reconvenes.

Attorney Rose now moves to quash, annul, and dismiss count one of the indictment against defendant Trinidad International Petroleum, *Inc.*, and states the grounds thereof. Ruling is reserved.

Attorney Rose now moves to quash, annul, and dismiss count one against defendant Wake Devel-

opment Company and states the grounds thereof. Ruling is reserved.

Attorney Rose now moves to quash, annul, and dismiss count two of the indictment as to Defendant Danziger individually and states the grounds thereof and argues in support of motion.

Attorney Rose now states additional grounds in support of his motion to dismiss count one as to each defendant on trial.

The Court and counsel discuss certain matters.

Attorney Rose now again moves on behalf of Defendant Danziger [83] individually that count two of the indictment be quashed, annulled, and dismissed and states the grounds of said motion. Ruling is reserved.

Attorney Rose now moves on behalf of Defendant Trinidad International Petroleum, Ltd., that count two be quashed, annulled, and dismissed and states the grounds. Ruling is reserved.

Attorney Rose moves on behalf of Wake Development Co. that count two be quashed, annulled, and dismissed, and states the grounds. Ruling is reserved.

Attorney Rose now moves to quash, annul, and dismiss count three as to Defendant Danziger and states the grounds. Ruling is reserved.

At 11:45 A.M. court recesses until 2 P.M. At 2:16 P.M. court reconvenes.

Attorney Rose makes a statement re theory of the Government's case, and moves to quash, annul and dismiss count three as to defendants Trinidad International Petroleum, Ltd., and Wake Develop-

ment Co. and states the grounds. Ruling is reserved.

Attorney Rose moves to quash, annul, and dismiss counts 4, 5, 6, and 7 as to the three defendants on trial herein and states the grounds. Ruling thereon is reserved.

The Court asks that Attorney Lucas state the Government's theory as to counts 1 to 7, inclusive, and Attorney Lucas argues to the court accordingly.

At 3:18 P.M. court recesses. At 3:30 P.M. court reconvenes.

Attorney Rose makes a statement and moves to quash, annul, and dismiss counts 8, 9, 10 and 11 as to all of the three defendants on trial herein, and states the grounds. Ruling thereon is reserved.

Attorney Lucas makes a statement of the Government's theory re counts 8, 9, 10, and 11. The Court and counsel discuss certain matters.

It is ordered that the cause be, and it hereby is, continued to Feb. 1, 1945, at 10 A.M., for further trial. [84]

At a stated term, to-wit: The September Term, A. D. 1944, of the District Court of the United States of America, within and for the Central Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles, on Thursday, the 1st day of February, in the year of our Lord one thousand nine hundred and forty-five.

Present: The Honorable: Claude McColloch,
District Judge.

[Title of Cause.]

This cause coming on for further trial of defendants Jacob M. Danziger, Trinidad International Petroleum, Ltd., and Wake Development Company; V. P. Lucas, Assistant U. S. Attorney, appearing as counsel for the Government; A. Brigham Rose, Esq., appearing as counsel for the said defendants on trial; and Samuel Goldstein, Court Reporter, being present and reporting the testimony and the proceedings:

Attorney Rose makes a statement and moves that counts 12, 13, 14, 15, and 16 be quashed, annulled, and dismissed and states the grounds thereof. Ruling is reserved.

Attorney Lucas states the theory of the Government on counts 12, 13, 14, 15 and 16. At 11:05 A.M. court recesses. At 11:15 A.M. court reconvenes.

Attorney Rose makes a statement as to count 17 and moves as to the three said defendants on trial herein to quash, annul, and dismiss count 17 and states the grounds thereof. Decision is reserved.

Motions to quash service of citation on defendants Trinidad International Petroleum, Ltd., and Wake Development Company, and to dismiss the Indictment as to all defendants, are denied, with exceptions allowed to the defendants. Motions to dismiss counts 1 to 7, inclusive, and 12 to 17, inclusive, are denied, with exceptions allowed to the

defendants. Decision on motions to dismiss counts 8, 9, 10, and 11 is reserved. [85]

Jacob Morris Danziger, defendant, is called, sworn, and testifies in his own behalf.

On motion of Attorney Lucas it is ordered that count 7 be, and it hereby is, dismissed.

Defendant Danziger testifies further and Defendant's Exhibits S and T are admitted into evidence.

At 11:55 A.M. court recesses. At 2 P.M. court reconvenes.

Defendant Danziger resumes the stand and testifies further.

Defendants' Exhibit U is admitted into evidence; Defendants' Exhibit Q for Ident. is admitted into evidence; Defendants' Exhibit V is admitted into evidence; Defendants' Exhibit H for Ident. is admitted into evidence; Defendants' Exhibits W and X are admitted into evidence; Defendants' Exhibits I, J, and R for Ident. are admitted into evidence.

At 3:10 P.M. court recesses. At 3:24 P.M. court reconvenes.

Defendant Danziger resumes the stand and testifies further. Defendants' Exhibit Y is admitted into evidence.

At 4:35 P.M. it is ordered that the cause be, and it hereby is, continued to February 2, 1945, at 10 A.M., for further trial. [86]

At a stated term, to-wit: The September Term, A. D. 1944, of the District Court of the United

States of America, within and for the Central Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles, on Friday, the 2nd day of February, in the year of our Lord one thousand nine hundred and forty-five.

Present: The Honorable: Claude McColloch,
District Judge.

[Title of Cause.]

This cause coming on for further trial of defendants Jacob M. Danziger, Trinidad International Petroleum, Ltd., and Wake Development Company; V. P. Lucas, Esq., Assistant U. S. Attorney, appearing for the Government; A. Brigham Rose, Esq., appearing for the defendants on trial; Samuel Goldstein, Court Reporter, being present and reporting the proceedings; the defendant Danziger being present;

Jacob Morris Danziger, defendant, resumes the stand and testifies further in his own behalf. Defendants' Exhibits Z, AA, BB, and CC are admitted into evidence.

Attorney Rose makes a statement re further examination of defendant Danziger on direct examination, and the Court suggests that Attorney Lucas commence his cross-examination on matters thus far covered in the direct examination and that Attorney Lucas complete his direct examination later.

At 10:50 A.M. Court recesses and reconvenes at 11 A.M. Witness Danziger resumes the stand

and testifies on cross-examination by Attorney Lucas.

U. S. Exhibit No. 114 is admitted into evidence.

At 12 o'clock noon Court recesses to 2 P.M. Court reconvenes at 2:04 P.M.; all present as before. Witness Danziger resumes the stand and testifies further. U. S. Exhibit No. 115 is admitted into evidence. [87]

At 3:10 P.M. Court recesses and reconvenes at 3:20 P. M. all present as before.

Witness Danziger resumes the stand. There is no further direct or cross-examination.

The defendants rest, and the Government offers no rebuttal testimony.

Attorney Hollis Black of the Securities and Exchange Commission addresses the Court on a question of law as to the registration counts in the indictment, viz: counts 8, 9, 10 and 11.

The Court and counsel discuss certain matters.

The Government waives opening argument.

Counts 8, 9, 10 and 11 are ordered stricken and a finding of not guilty is ordered entered as to said counts.

It is ordered that this cause be, and it hereby is, continued to 10 A.M. February 3, 1945, for argument and further proceedings.

Court adjourns at 3:45 P.M. [88]

At a stated term, to-wit: The September Term, A. D. 1944, of the District Court of the United States of America, within and for the Central

Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles, on Saturday, the 3rd day of February, in the year of our Lord one thousand nine hundred and forty-five.

Present: The Honorable: Claude McColloch,
District Judge.

[Title of Cause.]

This cause coming on for further trial of the defendants Jacob M. Danziger, Trinidad International Petroleum, Ltd., and Wake Development Company; V. P. Lucas, Esq., Assistant U. S. Attorney, Appearing for the Government; A. Brigham Rose, Esq., appearing for the defendants on trial; Samuel Goldstein, Court Reporter, being present and reporting the proceedings; the defendant Danziger being present:

The Court makes a statement re objections of the defendants to the introduction by the Government of certain documentary evidence, which documents were received subject to being later connected up, and the Court rules that all documentary evidence received at the trial in that manner shall be deemed to have been received and treated as competent for all purposes except where specifically rejected. Exception is noted for the defendants.

Attorney Rose now argues the law in connection with his objections made during the course of the trial as to the admissibility of certain evidence.

Attorney Rose now argues in behalf of the defendants on the merits of the case.

At 10:47 A.M. Attorney Lucas argues to the Court in behalf of the Government. [89]

The Court finds the defendants Jacob M. Danziger, Trinidad International Petroleum, Ltd., and Wake Development Company guilty as charged in counts 1, 2, 3, 4, 5, 6, 12, 13, 14, 15, 16 and 17 of the indictment and orders this cause referred to the Probation Officer for investigation and report as to each of said defendants and as to defendant Warren C. Carter (true name Willard Eugene Warren), and orders this cause continued to Saturday, February 10, 1945, at 10 A.M. for hearing on said reports and for sentence of said defendants.

The Court asks for the views of the Government on the question of allowing the defendant Danziger to remain at liberty on present bond pending sentence, or committing the defendant forthwith. Attorney Lucas makes a statement.

It is ordered that the defendant Danziger be permitted to remain at liberty on present bond pending sentence. [90]

District Court of the United States

No. 15173—Criminal

UNITED STATES OF AMERICA,

vs.

TRINIDAD INTERNATIONAL PETROLEUM,
LTD., et al.,

UNITED STATES SUBPENA

To: Harold J. McCoy, 541 Grant St., Cadiz, Ohio.

You Are Hereby Commanded that laying aside

all and singular your business and excuses, you be and appear in the District Court of the United States for the Southern District of California, at the Courthouse, in the city of Los Angeles, in said district, on the 15th day of January, A.D. 1945, at 9:30 o'clock a.m. of said day, then and there to testify and give evidence on behalf of the United States, and not to depart the Court without leave thereof, or of the United States Attorney.

Witness, the Honorable Paul J. McCormick, Judge of said District Court of the United States, this 20th day of December, A.D. 1944, and in the 169th year of the Independence of the United States of America.

(Seal) EDMUND L. SMITH,
Clerk.

By IRWIN HAMES
Deputy Clerk [91]

RETURN ON SERVICE

Received this writ at Steubenville, Ohio, on December 29, 1944, and on December 30, 1944, at Cadiz, Ohio, I served it on the within-named Harold J. McCoy, (Personally) and left a true copy thereof or a subpoena ticket with the person named above.

HAROLD K. CLAYPOOL,
U. S. Marshal

By G. E. FITHEN,

Marshal's Fees: Travel 52, \$2.56; Service .50;
Total, \$3.06.

[Endorsed]: Filed Jan. 9, 1945. [92]

[Title of District Court and Cause.]

UNITED STATES SUBPENA

To: J. Arthur Hazelton, Mantua, New Jersey.

You Are Hereby Commanded that laying aside all and singular your business and excuses, you be and appear in the District Court of the United States for the Southern District of California, at the Courthouse, in the city of Los Angeles, in said district, on the 15th day of January, A.D. 1945, at 9:30 o'clock a.m., of said day, then and there to testify and give evidence on behalf of the United States, and not to depart the Court without leave thereof, or of the United States Attorney.

Witness, the Honorable Paul J. McCormick, Judge of said District Court of the United States, this 20th day of December, A.D. 1944, and in the 169th year of the Independence of the United States of America.

(Seal)

EDMUND L. SMITH,

Clerk

By ERWIN HAMES,

Deputy Clerk [93]

RETURN ON SERVICE

Received this writ at Camden, N. J., on 12/27/44 and on 12/27/44 at Mantua, N. J., I served it on the within-named J. Arthur Hazelton by leaving with Janette Hazelton His Wife at his residence in

Mantua, N. J., and left a true copy thereof or a subpoena ticket with the person named above.

HUBERT J. HARRINGTON,
U. S. Marshal

By JAMES A. FOLEY,
Deputy.

[Endorsed]: Department of Justice. Received
Dec. 27, 1944. U. S. Marshal, Camden, N. J.

[Endorsed]: Filed Jan. 2, 1945. [94]

[Title of Court and Cause.]

UNITED STATES SUBPENA

To: Dr. Geo. E. Paddleford, 415 Adelyn Dr., San
Gabriel, California.

You Are Hereby Commanded that laying aside
all and singular your business and excuses, you be
and appear in the District Court of the United
States for the Southern District of California at
the Courthouse, in the city of Los Angeles, in said
district, on the 16th day of January, A.D. 1945, at
9:30 o'clock a.m. of said day, then and there to
testify and give evidence on behalf of the United
States, and not to depart the Court without leave
thereof, or of the United States Attorney.

Witness, the Honorable Paul J. McCormick,
Judge of said District Court of the United States,
this 30th day of December, A. D. 1944, and in the

169th year of the Independence of the United States of America.

(Seal) EDMUND L. SMITH,
Clerk.
By IRWIN HAMES,
Deputy Clerk. [95]

RETURN ON SERVICE

Received this writ at Los Angeles, California, on Jan. 1, 1945, and on Jan. 14, 1945, at 415 Adelyn Dr., San Gabriel, I served it on the within-named Dr. Geo. E. Paddleford and left a true copy thereof or a subpena ticket with the person named above.

ROBERT E. CLARK,
U. S. Marshal
By RAY M. FLEMING,
Deputy.

[Endorsed]: Filed Jan. 20, 1945. [96]

[Title of District Court and Cause.]

UNITED STATES SUBPENA

To: Adeline B. Skinner, 69 Main St., Manasquan,
New Jersey.

You Are Hereby Commanded that laying aside all and singular your business and excuses, you be and appear in the District Court of the United States for the Southern District of California, at the Courthouse, in the city of Los Angeles, in said

district, on the 15th day of January, A.D. 1945, at 9:30 o'clock a.m., of said day, then and there to testify and give evidence on behalf of the United States, and not to depart the Court without leave thereof, or of the United States Attorney.

Witness, the Honorable Paul J. McCormick, Judge of said District Court of the United States, this 20th day of December, A.D. 1944, and in the 169th year of the Independence of the United States of America.

(Seal) EDMUND L. SMITH,
Clerk.

By IRWIN HAMES,
Deputy Clerk.

RETURN OF SERVICE

Received this writ at Trenton, N. J., on December 27th, 1944, and on December 27th, 1944, at Manasquan, N. J., I served it on the within-named Adeline B. Skinner, personally, together with a copy of a letter dated 12-20-'44 from U. S. Attorney S. Dist. of Calif., and left a true copy thereof or a subpoena ticket with the person named above.

HUBERT J. HARRINGTON,
U. S. Marshal.

By CHARLES M. PEDRICK,
Deputy.

[Endorsed]: Department of Justice. Received Dec. 26, 1944. U. S. Marshal, Chief Deputy.

[Endorsed]: Filed Jan. 2, 1945. [98]

[Title of District Court and Cause.]

UNITED STATES SUBPENA

To: Eugene O'Connor, Chief Investigator of Blue Sky Department, Office of States Attorney, 507 County Building, Chicago, Illinois.

You Are Hereby Commanded that laying aside all and singular your business and excuses, you be and appear in the District Court of the United States for the Southern District of California at the Courthouse, in the city of Los Angeles, in said district, on the 16th day of January, A.D. 1945, at 9:30 o'clock a.m. of said day, then and there to testify and give evidence on behalf of the United States, and not to depart the Court without leave thereof, or of the United States Attorney.

Witness, the Honorable Paul J. McCormick, Judge of said District Court of the United States, this 30th day of December, A.D. 1944, and in the 169th year of the Independence of the United States of America.

(Seal)

EDMUND L. SMITH,
Clerk.

By IRWIN HAMES,
Deputy Clerk. [99]

RETURN ON SERVICE

Ret. Unex. Witness Deceased, this 17th of Jan.,
1945.

WM. H. McDONNELL,
U. S. Marshal.

By C. SIMON,
Deputy.

Northern District of Illinois

[Endorsed]: Filed Jan. 26, 1945. [100]

[Title of District Court and Cause.]

UNITED STATES SUBPENA

To: Florence S. Lawyer, 30 Odell Ave., Yonkers,
New York.

You Are Hereby Commanded that laying aside
all and singular your business and excuses, you be
and appear in the District Court of the United
States for the Southern District of California, at
the Courthouse, in the city of Los Angeles, in said
district, on the 15th day of January, A.D. 1945, at
9:30 o'clock a.m. of said day, then and there to
testify and give evidence on behalf of the United
States, and not to depart the Court without leave
thereof, or of the United States Attorney.

Witness, the Honorable Paul J. McCormick,
Judge of said District Court of the United States,
this 20th day of January, A.D. 1944, and in the

169th year of the Independence of the United States of America.

(Seal) EDMUND L. SMITH,
Clerk.

By IRWIN HAMES,
Deputy Clerk. [102]

RETURN ON SERVICE

Received this Writ at New York, N. Y., on Dec. 23, 1944, and on Dec. 27, 1944, at 30 Odell Ave., Yonkers, N. Y., I served it on the within named Florence S. Lawyer, by leaving a copy thereof or a subpena ticket with her personally.

JAMES E. MULCAHY,
U. S. Marshal, SDNY.

By EDWARD V. McKEMAN,
Deputy.

Marshal's Fees: Travel, \$1.20; Service, .50;
Total, \$1.70.

[Endorsed]: Filed Jan. 2, 1945. [103]

[Title of District Court and Cause.]

UNITED STATES SUBPENA

To: Mrs. Elizabeth Parsons, 801 Mahantongoo St.,
Pottsville, Pennsylvania.

You Are Hereby Commanded that laying aside all and singular your business and excuses, you be

and appear in the District Court of the United States for the Southern District of California, at the Courthouse, in the city of Los Angeles, in said district, on the 15th day of January, A.D. 1945, at 9:30 o'clock a.m. of said day, then and there to testify and give evidence on behalf of the United States, and not to depart the Court without leave thereof, or of the United States Attorney.

Withness, the Honorable Paul J. McCormick, Judge of said District Court of the United States, this 20th day of January, A.D. 1944, and in the 169th year of the Independence of the United States of America.

(Seal) EDMUND L. SMITH,
Clerk.

By IRWIN HAMES,
Deputy Clerk. [104]

RETURN ON SERVICE

Received this writ at [illegible] on 12-26-44 and on 12-27-44 at Pottsville, Pa., I served it on the within-named person and left a true copy thereof or a subpena ticket with the person named above.

FRANCIS R. SMITH,
U. S. Marshal.

By J. V. McGRARY,
Deputy.

[Endorsed]: Filed Jan. 16, 1945. [105]

[Title of District Court and Cause.]

UNITED STATES SUBPENA DUCES TECUM

The President of the United States of America.

To: D. B. Wilke, Chief Clerk, Western Union
Telegraph Co., 610 So. Spring St., Los Angeles,
California.

You Are Hereby Commanded to appear in the District Court of the United States for the Southern District of California, at the Courthouse, in the city of Los Angeles, in said District, on the 16th day of January, A.D. 1945, at 9:30 o'clock a.m. of said day, and also that you bring with you and produce at the time and place aforesaid

(1) Original application for Western Union Money Order in the sum of \$621.54 dated July 2, 1940, purchased by A. Levy, payable to George Carlton.

(2) Original Western Union Money Order No. G. 12746, for \$621.54, dated July 2, 1940, payable to George Carlton and issued at 1440 Broadway, New York City, New York.

(3) Original application for Western Union Money Order dated December 7, 1938, purchased by T. Mack, and payable to George Carlton, in the amount of \$100.00.

(4) Original Western Union Money Order No. F. 471188, in the sum of \$100.00, dated December 7, 1938, payable to George Carlton, and issued at 2138 Broadway, New York City, New York.

(5) Original application for Western Union Money Order dated September 22, 1939, purchased by A. Levy, and payable to George Carlton in the amount of \$177.19.

(6) Original Western Union Money Order No. F. 710097, for \$177.19, dated September 22, 1939, payable to George Carlton, issued at 2138 Broadway, New York City, New York.

(7) Original application for Western Union Money Order dated May 8, 1940, purchased by A. Levy and payable to George Carlton, in the amount of \$909.19.

(8) Original Western Union Money Order No. F. 976148, dated May 8, 1940, for \$909.19, payable to George Carlton issued at 1440 Broadway, New York City, New York.

(9) Original application for Postal Telegraph Money Order dated August 12, 1940, purchased by A. Levy, payable to George Carlton in the amount of \$642.60.

(10) Original Postal Telegraph Money Order No. H. 431534, dated August 12, 1940, for \$642.60, payable to George Carlton and issued at 153 West 42nd St., New York City, New York.

then and there to testify on behalf of the United States, and not depart the court without leave thereof or of the United States Attorney.

Witness, the Honorable Paul J. McCormick,
District Judge of the United States, this 22nd day

of December, A.D. 1944, and in the 169th year of the Independence of the United States of America.

(Seal)

EDMUND L. SMITH,
Clerk.

By IRWIN HAMES,
Deputy Clerk.

CHARLES H. CARR,
U. S. Attorney. [106]

RETURN ON SERVICE

Received this writ at Los Angeles on Dec. 23, and to Dec. 23, at Los Angeles, I served it on the within-named D. B. Wilke, Ch. Clk., W. U. Tel. Co. and left a true copy thereof or a subpoena ticket with the person named above.

ROBERT E. CLARK,
U. S. Marshal.

By JOHN C. BROHM,
Deputy.

[Endorsed]: Filed Jan. 4, 1945. [107]

[Title of District Court and Cause.]

UNITED STATES SUBPENA DUCES TECUM

The President of the United States of America.

To: Bank of America, National Trust and Savings
Association, 4th and Spring Street Branch, Los
Angeles, California.

You Are Hereby Commanded to appear in the

District Court of the United States for the Southern District of California, at the Courthouse, in the city of Los Angeles, in said District, on the 16th day of January, A.D. 1945, at 9:30 o'clock a.m. of said day, and also that you bring with you and produce at the time and place aforesaid

(1) Your collection record No. 310-3036, dated August 8, 1940, showing check for \$1,000.00 drawn on the Miners National Bank of Pottsville, Pennsylvania.

(2) Your collection record No. 310-0807, dated March 7, 1940, showing check for \$300.00 drawn on the Farmers National Bank, Mullica Hill, New Jersey.

(3) Your collection record No. 310-0505, dated November 28, 1938, covering check for \$350.00, drawn on The Safety Fund National Bank, Fitchburg, Massachusetts.

(4) Your collection record No. 310-1682, dated September 15, 1939, showing check for \$300.00, drawn on The First National Bank, Farmingdale, New Jersey.

(5) Your collection record No. 310-2675, dated May 3, 1940, in the amount of \$1370.00 drawn on Miners National Bank, Pottsville, Pa.

(6) Your collection record No. 310-2879, dated June 27, 1940, being a note for \$940.00, maker Elizabeth Parsons, paid through Miners National Bank, Pottsville, Pa.

(7) Your collection record No. 310-3518, dated December 19, 1940, showing check in the amount of \$1500.00, drawn on Miners National Bank, Pottsville, Pennsylvania.

then and there to testify on behalf of the United States, and not depart the court without leave thereof or of the United States Attorney.

Witness, the Honorable Paul J. McCormick, District Judge of the United States, this 21st day of December, A.D. 1944, and in the 169th year of the Independence of the United States of America.

(Seal)

EDMUND L. SMITH,

Clerk.

By IRWIN HAMES,

Deputy Clerk.

CHARLES H. CARR,

U. S. Attorney. [108]

RETURN ON SERVICE

Received this writ at Los Angeles, Calif., on Dec. 22, 1944 and on Dec. 22, 1944, at Los Angeles, Calif., I served it on the within-named Bank of America National Trust & Savings Association by serving the Asst. Cashier and Chief Clerk, Wm. Ladd, and left a true copy thereof or a subpoena ticket with the person named above.

ROBERT E. CLARK,

U. S. Marshal.

By EARL L. BAUGHER,

Deputy.

[Endorsed]: Filed Jan. 4, 1945. [109]

[Title of District Court and Cause.]

UNITED STATES SUBPENA DUCES TECUM

The President of the United States of America.

To: Mary D. Briggs, Postmaster, Federal Building, Los Angeles, California.

You Are Hereby Commanded to appear in the District Court of the United States for the Southern District of California, at the Courthouse, in the city of Los Angeles, in said District, on the 16th day of January, A.D. 1945, at 9:30 o'clock a.m. of said day, and also that you bring with you and produce at the time and place aforesaid

(1) Application for Domestic Money Order No. 983065, dated December 26, 1940 issued by Station "N" in the sum of \$100.00, payable to George Carlton, sent by A. Levy, 408 S. Spring St., Los Angeles, California.

(2) Original Money Order issued on the above application paid by the Postmaster at New York City, New York.

(3) Application for Domestic Money Order No. 983066, dated December 26, 1940, issued by Station "N" in the sum of \$100.00, payable to George Carlton, sent by A. Levy, 408 S. Spring St., Los Angeles, California.

(4) Original Money Order issued on the above application paid by the Postmaster at New York City, New York.

(5) Application for Domestic Money Order No. 983067, dated December 26, 1940, issued by Station "N" in the sum of \$100.00, payable to George Carl-

ton, sent by A. Levy, 408 S. Spring St., Los Angeles, California.

(6) Original Money Order issued on the above application paid by the Postmaster at New York City, New York.

(7) Application for Domestic Money Order No. 983068, dated December 26, 1940 issued by Station "N" in the sum of \$100.00, payable to George Carlton, sent by A. Levy, 408 S. Spring St., Los Angeles, California.

(8) Original Money Order issued on the above application paid by the Postmaster at New York City, New York.

(9) Application for Domestic Money Order No. 983069, dated December 26, 1940 issued by Station "N" in the sum of \$100.00 payable to George Carlton, sent by A. Levy, 408 S. Spring St., Los Angeles, California.

(10) Original Money Order issued on the above application paid by the Postmaster at New York City, New York.

(11) Application for Domestic Money Order No. 983070, dated December 26, 1940, issued by Station "N" in the sum of \$30.00, payable to George Carlton, sent by A. Levy, 408 S. Spring St., Los Angeles, California.

(12) Original Money Order issued on the above application paid by the Postmaster at New York City, New York.

(13) Original United States Postal Money Order No. 414038, dated March 18, 1940, in the sum of

\$100.00, purchased at Woodbury, New Jersey, and drawn to the order of A. L. Roberts.

(14) Original United States Postal Money Order No. 416045, dated April 12, 1940, in the sum of \$100.00, purchased at Woodbury, New Jersey, and drawn to the order of A. L. Roberts.

(15) Original United States Postal Money Order No. 416046, dated April 12, 1940, in the sum of \$100.00, purchased at Woodbury, New Jersey, and drawn to the order of A. L. Roberts.

(16) Original United States Postal Money Order No. 416047, purchased at Woodbury, New Jersey, dated April 12, 1940, in the sum of \$100.00, and drawn to the order of A. L. Roberts.

In responding to the above subpoena in each instance where original documents are called for, you may comply by providing certified photostatic copies for the originals in each instance.

then and there to testify on behalf of the United States, and not depart the court without leave thereof or of the United States Attorney.

Witness, the Honorable Paul J. McCormick, District Judge of the United States, this 23rd day of December, A.D. 1944, and in the 169th year of the Independence of the United States of America.

(Seal) EDMUND L. SMITH,
Clerk.

By IRWIN HAMES,
Deputy Clerk.

CHARLES H. CARR,
U. S. Attorney. [110]

RETURN ON SERVICE

Received this writ at Los Angeles, Calif., on Dec. 26, 1944, and on Dec. 26, 1944, at Los Angeles Post Office, I served it on the within-named Mary D. Briggs, and left a true copy thereof or a subpoena ticket with the person named above.

ROBERT E. CLARK,

U. S. Marshal.

By EARL L. BAUGHER,

Deputy.

[Endorsed]: Filed Jan. 4, 1945. [111]

[Title of District Court and Cause.]

UNITED STATES SUBPENA DUCES TECUM

The President of the United States of America.

To: Mrs. Florence Hedge, Post Office Employee,
Metropolitan Station, 7th and Spring Streets,
Los Angeles, California.

You Are Hereby Commanded to appear in the District Court of the United States for the Southern District of California, at the Courthouse, in the city of Los Angeles, in said District, on the 16th day of January, A.D. 1945, at 9:30 o'clock a.m. of said day, and also that you bring with you and produce at the time and place aforesaid

(1) Application for Domestic Money Order No. 983065, dated December 26, 1940, issued by Station "N" in the sum of \$100.00, payable to George Carl-

ton, sent by A. Levy, 408 S. Spring St., Los Angeles, California.

(2) Application for Domestic Money Order No. 983066, dated December 26, 1940, issued by Station "N" in the sum of \$100.00, payable to George Carlton, sent by A. Levy, 408 S. Spring St., Los Angeles, California.

(3) Application for Domestic Money Order No. 983067, dated December 26, 1940, issued by Station "N" in the sum of \$100.00, payable to George Carlton, sent by A. Levy, 408 S. Spring St., Los Angeles, California.

(4) Application for Domestic Money Order No. 983068, dated December 26, 1940, issued by Station "N" in the sum of \$100.00, payable to George Carlton, sent by A. Levy, 408 S. Spring St., Los Angeles, California.

(5) Application for Domestic Money Order No. 983069, dated December 26, 1940, issued by Station "N" in the sum of \$100.00, payable to George Carlton, sent by A. Levy, 408 S. Spring St., Los Angeles, California.

(6) Application for Domestic Money Order No. 983070, dated December 26, 1940, issued by Station "N" in the sum of \$30.00, payable to George Carlton, sent by A. Levy, 408 S. Spring St., Los Angeles, California.

then and there to testify on behalf of the United States, and not depart the court without leave thereof or of the United States Attorney.

Witness, the Honorable Claude McColloch, District Judge of the United States, this 12th day of January, A.D. 1945, and in the 169th year of the Independence of the United States of America.

(Seal)

EDMUND L. SMITH,
Clerk.

By IRWIN HAMES,
Deputy Clerk.

CHARLES H. CARR,
U. S. Attorney. [112]

RETURN ON SERVICE

Received this writ at Los Angeles, Calif., on Jan. 12, 1945, and on Jan. 13, 1945, at Los Angeles, Calif., I served it on the within-named Mrs. Florence Hedge by leaving a copy with the superintendent of the Metropolitan Station Post Office, C. E. Dutton, and left a true copy thereof or a subpoena ticket with the person named above.

ROBERT E. CLARK,
U. S. Marshal.

By EARL L. BAUGHER,
Deputy.

[Endorsed]: Filed Jan. 16, 1945. [113]

In the District Court of the United States for
the Southern District of California, Central
Division

No. 15173

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JACOB MORRIS DANZIGER, also known as
J. M. Danziger, et al,

Defendants.

MOTION FOR NEW TRIAL

Come now the defendants, Jacob Morris Danziger, also known as J. M. Danziger, Trinidad International Petroleum, Limited, a Corporation, and Wake Development Company, a Corporation, three of the defendants named in the above entitled proceeding and they, and each of them, move the Court to grant them a new trial in the above-styled cause, for the following reasons, to-wit:

I.

Because the evidence fails to establish that the parties named in the Bill of Indictment were co-conspirators in fact or in the proposed commission of any crime denounced by the laws of the United States, or at all. [114]

II.

Because the decision and conclusions reached by the trial court is contrary to the law and the evidence.

III.

Because the court's decision against these defendants is against the weight of evidence.

IV.

Because errors in the reception and exclusion of evidence were prejudicial and of sufficient gravity to require the granting of a new trial.

V.

Because the trial court was without jurisdiction to try the corporate defendants, above named, without trial by jury and that said trial and proceedings were contrary to the laws securing due process and the equal protection of the laws of the United States and the Constitution of the United States.

VI.

Because the court was without jurisdiction to proceed with the trial of these defendants after failure to arraign these defendants for almost three years after the filing of the indictment.

VII.

Because the irregularities in the proceedings in fact deprived these defendants of the opportunity to prepare their defense and procure depositions and the testimony of witnesses indicated and referred to in the affidavits on file preceding the order and direction on the part of the trial court to proceed with the trial.

VIII.

Because the indictment and the allegations in the respective counts thereof, fail to charge the com-

mission of a public offense cognizable under the laws of the United States. [115]

SPECIFICATIONS OF THE INSUFFICIENCY OF THE EVIDENCE

The defendants respectfully submit as their specifications of the insufficiency of the evidence, the following:

(a) There is no indication in the record by any competent evidence of the exact nature or purported form of conspiracy; i.e., the arrangement between Trinidad International Petroleum, Limited, and the Great Eastern Natural Gas Company, Inc., was a perfectly legal and valid form of agreement and in no respect was or is proscribed by the laws of the United States.

There is no evidence to show that said agreement was in bad faith or was in its nature and character, an agreement designed or intended to defraud any person or persons. The uncontradicted evidence shows that the Securities Exchange Commission, from the inception of said agreement and for a period of years thereafter, knowing its nature and character, at no time took any steps or measures to exercise any of the measures set forth in Section 20, and the respective sub-division thereof, nor Sections 21 or 22 of the Securities Act of 1933, as amended.

Under the evidence adduced at the trial of these defendants, the conspiracy, if any, would tend to support a charge that the said agreement between

the Great Eastern Natural Gas Company, Inc., and the Trinidad International Petroleum, Limited, was an agreement designed and intended to circumvent the statutes requiring a registration statement to be in effect as to the sale of such securities as provided by Section 5 (a) (2) Securities Act of 1933, 15 U.S.C., Section 77e (a) (2).

(b) There is no competent evidence anywhere in the record to support the contention of counsel for the Government that these defendants moving for a new trial, ever entered into an agreement with anyone, at any time, authorizing the making of the character and the nature of representations testified to by the witness, W. E. Warren. Said witness' testimony, in any [116] event and under all circumstances under the law, should be treated with suspicion, distrust and caution.

(c) The evidence of said W. E. Warren indicates that his actions and those who worked with him in the making of representations to the persons to whom the various sales testified to by him were made, were acts done out of the presence of these defendants and without their knowledge and without their consent and that the said misrepresentation and modes employed by the said Warren and his colleagues outside of the presence and without the knowledge of these defendants under the evidence would tend to support a theory that the crimes, if any, committed by him (Warren) and the persons unknown to these defendants, are crimes denounced by the laws of the states herein-

after indicated but not by any law of the United States:

In the case of Elizabeth T. Parsons, the laws of the State of Pennsylvania; in the case of Florence F. Lawyer, the laws of the State of New York; in the case of Harry F. Pitts, the laws of the State of New York; in the case of F. A. Russell, the laws of the State of Massachusetts; in the case of Adeline B. Skinner, the laws of the State of New Jersey; in the case of E. Barrie Smith, the laws of the State of Connecticut; in the case of Mike Burns, the laws of the State of New York; in the case of J. Arthur Hazelton, the laws of the State of New Jersey; in the case of Harold McCoy, the laws of the State of Ohio.

(d) The Government has wholly failed to present or tender a solitary particle of evidence to show that the properties and shares of stock sold, insofar as the acts of these defendants were concerned, and the representations made by them were not bona fide, in good faith, and not statements of uncontradicted and indisputable facts. The specific transaction and the letter pleaded in the first count, insofar as these defendants are concerned, do not constitute such conduct or acts violative of Section 17-A, [117] Subdivision 1, Securities Act of 1933, or 15 U.S.C. 77q (a) (1) as specified in the indictment, or at all.

(e) There is no evidence from which the court could competently conclude that these defendants or any one of these defendants committed the act

or acts constituting the alleged offense set forth in Counts 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16 and 17 of the indictment.

This contention is singularly advanced in behalf of each of these counts individually and separately.

These defendants adopt by reference as grounds in support of this motion all of the objections and exceptions and reasons advanced in their support at all stages of the proceedings heretofore had as reflected by the record.

A. BRIGHAM ROSE,

Attorney for Above-Named
Defendants.

[Endorsed]: Filed Feb. 6, 1945. [118]

[Title of District Court and Cause.]

MOTION IN ARREST OF JUDGMENT

Come now the defendants, Jacob Morris Danziger, also known as J. M. Danziger, Trinidad International Petroleum, Limited, a Corporation, and Wake Development Company, Inc., a Corporation, three of the persons named as defendants in the above entitled case, and move that the decision of "Guilty" rendered against them by the trial judge presiding in this court upon the conclusion of the case on the 3rd day of February, 1945, be arrested and no judgment and sentence be imposed thereon for the following reasons:

I.

That the indictment upon which these defendants were tried and convicted does not state facts sufficient to constitute a crime against the United States. This contention is applicable to each and all of the respective counts, numbers 1 to 17, [119] inclusive. Said grounds are singularly presented in behalf of each of these defendants as to each and every count thereof separately.

II.

That more than one crime is sought to be charged in the indictment and in the respective counts thereof through the medium of singular and co-related acts selected to base the respective and separate 17 counts set forth in said indictment, notwithstanding that 1 to 17 are duplicatous and that they are disjoined, paradoxical and antithetical each to the other.

III.

That the said purported offenses set up in these counts in said indictment, are barred by the statute of limitations.

IV.

That the facts stated in the indictment do not as alleged constitute a crime, and that the court lacks jurisdiction thereover.

Reference is hereby had to each and all of the objections, motions and exceptions before the commencing of the trial and during all the stages thereof up to the point of the rendition of the decision rendered herein.

Wherefore, by reason of the matters and things hereinbefore set forth, defendants pray an order that judgment in this case be arrested as provided by law.

A. BRIGHAM ROSE

Attorney for the Defendants.

[Endorsed]: Filed Feb. 6, 1945. [120]

At a stated term, to-wit: The February Term, A. D. 1945, of the District Court of the United States of America, within and for the Central Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles on Saturday the 10th day of February in the year of our Lord one thousand nine hundred and forty-five.

Present: The Honorable Claude McColloch,
District Judge

[Title of Cause.]

This cause coming on for (1) hearing motions on defendants Jacob M. Danziger, Trinidad International Petroleum, Ltd, and Wake Development Co. in arrest of judgment and for new trial; (2) sentence of defendants Jacob M. Danziger, Trinidad International Petroleum, Ltd, and Wake Development Co. on counts 1 to 6, inclusive, and 12 to 17, inclusive; and (3) sentence of defendant Willard Eugene Warren, charged as Warren C. Carter, etc., on count 17; V. P. Lucas, Assistant U. S. Attorney,

appearing as counsel for the Government; A. Brigham Rose, Esq., appearing as counsel for defendants Danziger, Trinidad International Petroleum, Ltd, and Wake Development Co.; Ames Peterson, Esq., appearing as counsel for Defendant Warren charged as Warren C. Carter; and John Q. Bybee, Court Reporter, being present and reporting the proceedings:

Attorney Rose makes a statement and presents motion for new trial on behalf of defendants Danziger, Trinidad International Petroleum, Ltd, and Wake Development Co., and argues in support of motions. Attorney Rose makes a statement re motions in arrest of judgment in response to an inquiry by the Court.

Attorney Lucas waives argument on the motions. Motion for new trial and in arrest of judgment as to defendants Danziger, Trinidad International Petroleum, Ltd, and Wake Development Co. is denied and exception noted. Attorney Peterson makes a statement in behalf of Defendant Carter.

Attorney Rose makes a statement in behalf of defendants Danziger, Trinidad International Petroleum, Ltd, and Wake Development Co.

The Court pronounces sentence on each of Defendants Carter and Danziger and fines the corporate defendants as follows:

* * * *

Attorney Rose moves that Defendant Danziger be allowed to remain on his present bond pending appeal. The Court makes a statement and denies the said motion.

District Court of the United States, Southern
District of California, Central Division

No. 15,173

UNITED STATES OF AMERICA

v.

WILLARD EUGENE WARREN (chgd. as Warren C. Carter, etc.)

JUDGMENT AND COMMITMENT

Criminal Indictment in 17 counts for violation of Secs. 17 (a) (1) & 5 (a) (2), Securities Act of 1933 (15 USC 77q (a) (1), e (a) (1); Sec. 37 of Crim. Code (18 USC 88); Sec. 215 of Crim. Code (18 USC 338).

On this 10th day of February, 1945, came the United States Attorney, and the defendant Willard Eugene Warren (chgd. as Warren C. Carter, etc.) with counsel, Ames Petersen, Esq., appearing in proper person, and

The defendant having been convicted on his plea of guilty to count 17 of the offense charged in the Indictment in the above-entitled cause, to wit: unlawfully conspiring with others in the use of the U. S. mails to employ a scheme or artifice to defraud, etc., in violation of Title 18 USC, Sec. 88, as more fully set forth in said count of the indictment herein, and the defendant having been now asked whether he has anything to say why judgment should not be pronounced against him, and

no sufficient cause to the contrary being shown or appearing to the Court, It Is by the the Court

Ordered and Adjudged that the defendant, having been found guilty of said offenses, is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for the period of Fifteen (15) months on count 17 of the indictment herein,

Counts 1 to 16, inc. are ordered dismissed on motion of the U. S. Attorney.

It Is Further Ordered that the defendant be forthwith remanded to custody of the U. S. Marshal.

(See amended judg.)

It Is Further Ordered that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the same shall serve as the commitment herein.

(Signed) CLAUDE McCOLLOCH,
United States District Judge.

Filed this 10th day of February, 1945.

(Signed) EDMUND L. SMITH
Clerk.

By E. N. FRANKENBERGER
Deputy Clerk. [123]

District Court of the United States, Southern
District of California, Central Division

No. 15,173

UNITED STATES OF AMERICA

v.

JACOB MORRIS DANZIGER

JUDGMENT AND COMMITMENT

Criminal Indictment in 17 counts for violation of
Secs. 17 (a) (1) & 5 (a) (2), Securities Act of
1933 (15 USC 77q (a) (1), e (a) (1); Sec. 37
of Crim. Code (18 USC 88); Sec. 215 of Crim.
Code (18 USC 338).

On this 10th day of February, 1945, came the
United States Attorney, and the defendant Jacob
Morris Danziger appearing in proper person, and
by counsel, A. Brigham Rose, Esq., and,

The defendant having been convicted on finding
of guilty of the offenses charged in the Indictment
in the above-entitled cause, to wit: Counts 1 to 6,
inc.: unlawfully using the U S mails to employ a
scheme and artifice to defraud, etc. in violation of
Sec. 17 (a) (1) Securities Act of 1933, Sec. 77q
(a) (1) Title 15 USC; Counts 12 to 16, inc.: unlaw-
fully using the U S mails in furtherance of the
scheme and artifice to defraud, in violation of Title
18 USC, 338); and Count 17: conspiring with others
to commit the aforesaid acts in violation of Title
18 USC, Sec. 88; as more fully set forth in said
counts of the indictment herein; and the defendant

having been now asked whether he has anything to say why judgment should not be pronounced against him, and no sufficient cause to the contrary being shown or appearing to the Court, It Is by the Court

Ordered and Adjudged that the defendant, having been found guilty of said offenses, is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for the period of fifteen (15) months on each of counts 1, 2, 3, 4, 5, 6, 12, 13, 14, 15, 16 and 17, concurrently (total term of imprisonment fifteen (15) months).

On each of counts 7, 8, 9, 10 and 11, the Court finds the defendant not guilty.

It Is Further Ordered that the defendant be forthwith remanded to custody of the U. S. Marshal.

It Is Further Ordered that bond of the defendant be, and it hereby is, exonerated.

It Is Further Ordered that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the same shall serve as the commitment herein.

(Signed) CLAUDE McCOLLOCH,
United States District Judge.

Filed this 10th day of February, 1945.

(Signed) EDMUND L. SMITH
Clerk.

By E. N. FRANKENBERGER,
Deputy Clerk. [124]

District Court of the United States, Southern
District of California, Central Division

No. 15,173

UNITED STATES OF AMERICA

v.

WAKE DEVELOPMENT COMPANY

JUDGMENT AND COMMITMENT

Criminal Indictment in 17 counts for violation of
Secs. 17 (a) (1) & 5 (a) (2), Securities Act of
1933 (15 USC 77q (a) (1), e (a) (1); Sec. 37
of Crim. Code (18 USC 88); Sec. 215 of Crim.
Code 18 USC 338).

On this 10th day of February, 1945, came the
United States Attorney, and the defendant Wake
Development Company appearing in proper person,
and by counsel, A. Brigham Rose, Esq., and,

The defendant having been convicted on finding
of guilty of the offenses charged in the Indictment
in the above-entitled cause, to wit: Counts 1 to 6,
inc.: unlawfully using the U S mails to employ
a scheme and artifice to defraud, etc. in violation
of Sec. 17 (a) (1) Securities Act of 1933, Sec. 77q
(a) (1) Title 15 USC; Counts 12 to 16, inc.: unlaw-
fully using the U S mails in furtherance of the
scheme and artifice to defraud, in violation of Title
18 USC, 338); and Count 17: conspiring with others
to commit the aforesaid acts in violation of Title
18 USC, Sec. 88; as more fully set forth in said
counts of the indictment herein; and the defendant

having been now asked whether it has anything to say why judgment should not be pronounced against it, and no sufficient cause to the contrary being shown or appearing to the Court, It Is by the Court

Ordered and Adjudged that the defendant, having been found guilty of said offenses, pay unto the United States of America a fine in the sum of Twenty-four Hundred Dollars (\$2400.00,) divided equally in the sum of Two Hundred Dollars (\$200.00) on each of counts 1 to 6, inc. and 12 to 17, inc.

On each of counts 7, 8, 9, 10 and 11, the Court finds the defendant not guilty.

(Signed) CLAUDE McCOLLOCH,
United States District Judge.

Filed this 10th day of February 1945.

(Signed) EDMUND L. SMITH
Clerk.

(By) E. N. FRANKENBERGER
Deputy Clerk. [125]

District Court of the United States, Southern
District of California, Central Division

No. 15,173

UNITED STATES OF AMERICA

v.

TRINIDAD INTERNATIONAL PETROLEUM
Ltd.,

JUDGMENT AND COMMITMENT

Criminal Indictment in 17 counts for violation of
Secs. 17 (a) (1) & 5 (a) (2), Securities Act of
1933 (15 USC 77q (a) (1), e (a) (1)); Sec. 37
of Crim. Code (18 USC 88); Sec. 215 of Crim.
Code (18 USC 388).

On this 10th day of February, 1945, came the
United States Attorney, and the defendant Trini-
day International Petroleum, Ltd., appearing in
proper person, and by counsel, A. Brigham Rose,
Esq., and,

The defendant having been convicted on finding
of guilty of the offenses charged in the Indictment
in the above-entitled cause, to wit: Counts 1 to 6,
inc.: unlawfully using the U S mails to employ
a scheme and artifice to defraud, etc. in violation
of Sec. 17 (a) (1) Securities Act of 1933, Sec.
77q (a) (1), Title 15 USC; Counts 12 to 16, inc.;
unlawfully using the U S mails in furtherance of
the scheme and artifice to defraud, in violation of
Title 18 USC, 338); and Count 17: conspiring with
others to commit the aforesaid acts in violation of

Title 18 USC, Sec. 88; as more fully set forth in said counts of the Indictment herein; and the defendant having been now asked whether it has anything to say why judgment should not be pronounced against it, and no sufficient cause to the contrary being shown or appearing to the Court, It Is by the Court

Ordered and Adjudged that the defendant, having been found guilty of said offenses, pay unto the United States of America a fine in the sum of Twenty-four Hundred Dollars (\$2400.00), divided equally in the sum of Two Hundred Dollars (\$200.00) on each of counts 1 to 6, inc. and 12 to 17, inc.

On each of counts 7, 8, 9, 10 and 11, the Court finds the defendant not guilty.

(Signed) CLAUDE McCOLLOCH,
United States District Judge.

Filed this 10th day of February, 1945.

(Signed) EDMUND L. SMITH
Clerk.

(By) E. N. FRANKENBERGER
Deputy Clerk. [126]

In the United States Circuit Court of Appeals
for the Ninth Circuit

No. 15173

UNITED STATES OF AMERICA

Plaintiff,

vs.

JACOB MORRIS DANZIGER, et al.,

Defendants.

NOTICE OF APPEAL

Name and address of appellant: Jacob Morris Danziger, 408 South Spring Street, Los Angeles, California; Trinidad International Petroleum, Ltd., a Nevada corporation, c/o A. Brigham Rose, 205 South Broadway, Los Angeles, California; Wake Development Company, a Delaware corporation, c/o A. Brigham Rose, 205 South Broadway, Los Angeles, California.

Name and address of appellants' attorney: A. Brigham Rose, 205 South Broadway, Los Angeles, California.

Offense: Violations of Secs. 17 (a) (1) and 5 (a) (2), Securities Act of 1933. (15 U.S.C. Section 77q (a) (1), e (a) (1) Section 37 of the Criminal Code (18 U.S.C. 88). Section 215 of the Criminal Code (18 U.S.C. 338). (Securities Act, Mail Fraud and Conspiracy), in seventeen counts.

Date of Judgment: February 10, 1945.

Brief description of judgment or sentence: The judgments were entered by the Trial Judge sitting

without a jury, finding the above [127] named two corporate defendants and the individual defendant guilty on twelve (12) counts of the indictment, to-wit: Counts 1 to 6, and 12 to 17 inclusive. The corporate defendants were each fined Twenty-four Hundred Dollars (\$2400.00), the individual defendant was sentenced to fifteen (15) months imprisonment on seven of the said twelve counts, to run concurrently.

Name of prison where now confined, if not on bail: Los Angeles County Jail, Los Angeles, California.

We, the above-named appellants, hereby appeal to the United States Circuit Court of Appeals for the Ninth Circuit from the judgment above-mentioned on the grounds set forth below.

Pursuant to Rule V, I hereby serve notice that I do not elect to enter upon the service of the sentence pending appeal.

J. M. DANZIGER

Appellant.

A. BRIGHAM ROSE

Attorney for Corporate Defendants

Dated: February 12, 1945.

GROUND'S OF APPEAL:

1. There was no evidence at the conclusion of the Government's case which could competently be deemed sufficient in law to establish any conspiracy on the part of the defendants to commit the offenses

above specified, and the Court should have dismissed the cause at the close of the Government's case and more especially at the close of the entire case.

2. The motion of the individual defendant to quash and dismiss the indictment for failure to proceed with the arraignment of said defendant for three (3) years after the filing of the indictment, should have been granted.

3. The objection of A. Brigham Rose, counsel for Jacob Morris Danziger, to the order to appear in behalf of the two corporate Defendants should have been sustained.

4. The objection on the part of all defendants to be [128] forced to trial without an opportunity of taking depositions of witnesses whose testimony was material and which, owing to war conditions and the lack of timely notice of the intention of the Government to proceed, should have been sustained and the ruling of the Court was clearly erroneous and prejudicial.

5. The trial court, over objections of the defendants, admitted witnesses to testify to matters that were mostly incompetent and prejudicial.

6. The court erred in admitting, over objections by the defendants, extra judicial statements into the record, which were incompetent and prejudicial.

7. The court erred in permitting secondary evidence pertaining to communication alleged to have been sent to defendants.

8. The court erred in refusing to grant defendants' motion to quash the indictment on the grounds that the same was procured solely on hearsay and incompetent evidence.

9. Defendants were deprived of a fair and impartial trial, guaranteed them by the Constitution.

10. The Court erred in denying defendants' Motion for New Trial.

11. The court erred in denying the defendants' Motion to Arrest the Judgment.

12. The court erred in its decision of overruling the objections of the defendants in admitting each and all of the exhibits offered and presented by the Government in evidence.

Received copy this 12th day of Feb., 1945.

CHARLES H. CARR

U. S. Atty.

By JAMES M. CARTER

Asst. U. S. Atty.

[Endorsed]: Filed Feb. 12, 1945. [129]

At a stated term, to-wit: The February Term, A. D. 1945, of the District Court of the United States of America, within and for the Central Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles on Wednesday the 14th day of February in the year of our Lord one thousand nine hundred and forty-five.

Present: The Honorable Claude McColloch,
District Judge

[Title of Cause.]

A. Brigham Rose, Esq., appears before the Court. The Court requests the Court Reporter, H. A. Dewing, who is present, to report these proceedings.

Attorney Rose makes a statement to the Court re order of the Circuit Court of Appeals releasing the defendant Jacob M. Danziger on bail pending appeal and refers to a telegram from the Clerk of the Circuit Court of Appeals to the Clerk of the District Court. The Court states that certified copy of the order of the Circuit Court of Appeals has not yet been received and when received the Court will hear Attorney Rose and Attorney Lucas in the matter. [130]

[Title of District Court and Cause.]

BAIL BOND ON APPEAL

Bond No. 824-0018

Know All Men by These Presents:

That we, Jacob Morris Danziger as Principal, and the Northwest Casualty Company, a Washington Corporation, a surety, are jointly and severally held firmly bound unto the United States of America in the sum of Five Thousand and No/100 Dollars (\$5,000.00), for the payment of which sum we and each of us bind ourselves, our heirs, executors, administrators and assigns.

The condition of the foregoing obligation is as follows:

Whereas, lately, to-wit, on the 10th day of Feb-

ruary, 1945, at a term of the District Court of the United States, in and for the Southern District of California, Central Division, in an action pending in said Court in which the United States of America is Plaintiff, and Jacob Morris Danziger was Defendant, judgment and sentence was made, given, rendered and entered against the said Defendant in the above entitled action, whereas he was convicted as charged in the indictment;

Whereas, in said judgment and sentence, so made, given, rendered and entered against said Jacob Morris Danziger, it was ordered and adjudged that the Defendant, having been found guilty of said offense, is hereby committed to the custody of the Attorney General for imprisonment in an institution of the penitentiary type, to be designated by the Attorney General or his Authorized representative for a period of fifteen months on counts 1 to 6 inclusive, and on counts 12 to 17 inclusive, said sentence on each count to run concurrently.

Whereas, the said Jacob Morris Danziger, has filed notice of appeal from the said conviction and from the said judgment and sentence, appealing to the United States Circuit Court of Appeals for the Ninth Circuit; and

Whereas, the said Jacob Morris Danziger, has been admitted to bail pending the decision upon said appeal, in the sum of Five Thousand and No/100 Dollars (\$5,000.00). [131]

Now Therefore, the conditions of this obligation are such that if said Jacob Morris Danziger shall

appear in person, or by his attorney, in the United States Circuit Court of Appeals for the Ninth Circuit on such day or days as may be appointed for the hearing of said cause in said Court and prosecute his appeal; and if the said Jacob Morris Danziger shall abide by and obey Court orders by the said United States Circuit Court of Appeals for the Ninth Circuit, and if the said Jacob Morris Danziger shall surrender himself in execution of said judgment and sentence, if the said judgment and sentence be affirmed by the United States Circuit Court of Appeals for the Ninth Circuit; and if the said Jacob Morris Danziger will appear for trial in the District Court of the United States, in and for the Southern District of California, Central Division, on such day or days as may be appointed for retrial by said District Court, and if the said judgment and sentence against him be reversed, then this obligation shall be null and void; otherwise to remain in full force and effect.

This Recognizance shall be deemed and construed to contain the "express Agreement", summary judgment and execution thereon, mentioned in Rule 13 of the District Court.

J. M. DANZIGER

Principal

[Seal]

NORTHWEST CASUALTY
COMPANY, a Washington
Corporation.

By A. W. APPEL

Its Attorney-in-Fact Surety.

Approved As to Form.

V. P. LUCAS

United States Attorney

I hereby certify that I have examined the within bond and that in my opinion the form thereof is correct and surety thereon is qualified.

A. BRIGHAM ROSE

Attorney for Defendant and
Appellant.

The foregoing bond is approved this 15th day of February, 1945.

CLAUDE McCOLLOCH

United States District Judge.

State of California,
County of Los Angeles—ss.

On this 15th day of February, A. D. 1945, before me, Marva Weede, a Notary Public in and for the County and State aforesaid, duly commissioned and sworn, personally appeared A. W. Appel, Attorney-in-Fact of the Northwest Casualty Company, a Washington corporation, to me personally known to be the individual and officer described in and who executed the within instrument, and he acknowledged the same, and being by me duly sworn, deposes and says that he is the said officer of the Company aforesaid, and the seal affixed to the within instrument is the corporate seal of said Company, and that the said corporate seal and his signature as such officer were duly affixed and subscribed to the said instrument by the authority and direction of the said corporation.

Iⁿ Witness Whereof, I have hereunto set my hand and affixed my official seal at my office in the City of Los Angeles, County of Los Angeles, the day and year first above written.

MARVA WEEDE

Notary Public in and for the County of Los Angeles, State of California.

My Commission Expires February 3, 1946.

[Endorsed]: Filed Feb. 15, 1945. [132]

At a stated term, to-wit: The February Term, A. D. 1945, of the District Court of the United States of America, within and for the Central Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles, on Monday, the 19th day of February, in the year of our Lord one thousand nine hundred and forty-five.

Present: The Honorable: Claude McColloch,
District Judge.

[Title of Cause.]

This cause coming on for modification of sentence of the defendant Willard Eugene Warren, charged in the indictment as Warren C. Carter; V. P. Lucas, Esq., Assistant U. S. Attorney, appearing for the Government; Ames Peterson, Esq., appearing for the defendant Warren (Carter); H. A. Dewing, Court Reporter, being present and reporting the proceedings; the said named defend-

ant being present in Court in custody: the Court orders the original judgment and commitment, entered herein on February 10, 1945, as to said defendant Warren, amended and modified as follows: [133]

* * * *

District Court of the United States, Southern District of California, Central Division

No. 15,173

Criminal Indictment in 17 counts for violation of Secs. 17(a)(1) & 5(a)(2), Securities Act of 1933 (15 U.S.C. 77q(a)(1), e(a)(1); Sec. 37 of Crim. Code (18 U.S.C. 88); Sec. 215 of Crim. Code (18 U.S.C. 338).

UNITED STATES OF AMERICA,

vs.

WILLARD EUGENE WARREN (chgd. as Warren C. Carter, etc.)

AMENDED AND MODIFIED JUDGMENT
AND COMMITMENT

On this 19th day of February, 1945, came the United States Attorney, and the defendant Willard Eugene Warren (chgd. as Warren C. Carter, etc.) appearing in proper person, and with counsel, Ames Peterson, Esq., and,

The defendant having been convicted on his

plea of guilty to count 17 of the offense charged in the Indictment in the above-entitled cause, to wit: unlawfully conspiring with others in the use of the U. S. mails to employ a scheme and artifice to defraud, etc., in violation of Title 18 U.S.C., Sec. 88, as more fully set forth in said count of the indictment herein, and the defendant having been now asked whether he has anything to say why judgment should not be pronounced against him, and no sufficient cause to the contrary being shown or appearing to the Court, It Is by the Court

Ordered and Adjudged that the defendant, having been found guilty of said offenses, is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for the period of Sixty (60) days from date hereof on count 17 of the indictment herein.

Counts 1 to 16, inc. are ordered dismissed on motion of the U. S. Attorney.

It Is Further Ordered that the defendant be forthwith remanded to custody of the U. S. Marshal.

It Is Further Ordered that the judgment and commitment heretofore entered herein on February 10, 1945, be, and the same hereby is vacated and set aside.

It Is Further Ordered that the Clerk deliver a certified copy of this amended and modified judgment and commitment to the United States Mar-

shal or other qualified officer and that the same shall serve as the commitment herein.

(Signed) **CLAUDE McCOLLOCH,**
United States District Judge.

Filed this 19th day of February, 1945.

(Signed) **EDMUND L. SMITH,**
Clerk.

By **E. N. FRANKENBERGER,**
Deputy Clerk. [134]

[Title of District Court and Cause.]

STIPULATION

It Is Hereby Stipulated by and between counsel for the respective parties herein that the defendants and appellants, to-wit: Jacob Morris Danziger, also known as J. M. Danziger, Trinidad International Petroleum, Limited, a Corporation, and Wake Development Company, Inc., a Corporation, may have up to and including the 10th day of May, 1945, within which to present for settlement and allowance the proposed bill of exceptions herein and the assignment of errors, and that the time for such presentation, settlement and allowance may be enlarged and extended to said date by Order

of the Court herein, and that the United States of America may have up to and including May 30, 1945, within which to serve and file proposed amendments to the bill of exceptions herein, and that the time within which the appellants are required to file the record and docket the cause in the United States Circuit Court of Appeals for the [135] Ninth Circuit, may be enlarged and extended up to and including sixty (60) days after the allowance and settlement of the bill of exceptions herein.

CHARLES H. CARR,

United States Attorney.

JAMES M. CARTER and

V. P. LUCAS,

Assistant U. S. Attorneys.

By JAMES M. CARTER,

Attorneys for Plaintiff.

A. BRIGHAM ROSE,

Attorney for Appellants.

[Endorsed]: Filed March 3, 1945. [136]

[Title of District Court and Cause.]

ORDER EXTENDING TIME WITHIN WHICH
TO PREPARE, SERVE AND FILE TRAN-
SCRIPT, ASSIGNMENT OF ERRORS, AND
BILL OF EXCEPTIONS

Good cause appearing and upon motion of counsel for the defendants, Jacob Morris Danziger, also known as J. M. Danziger, Trinidad International

Petroleum, Limited, a Corporation, and Wake Development Company, Inc., a Corporation, it is hereby

Ordered, that the said defendants may have up to and including the 10th day of May, 1945, within which to serve, lodge, file and present for allowance their proposed transcript and Bill of Exceptions and Assignment of Errors, and the appellee, United States of America, have up to and including the 30th day of May, 1945, within which to appear and serve any proposed amendments to the proposed Bill of Exceptions, and that the appellants herein cause to be docketed with the Clerk of the Circuit Court of Appeals for the Ninth Circuit, the said records within sixty (60) days after allowance and settlement of the Bill of Exceptions, etc., herein. [137]

Dated: March 5th, 1945.

CLAUDE McCOLLOCH,

United States District Judge of the Southern District of California.

[Endorsed]: Filed March 3, 1945. [138]

[Title of District Court and Cause.]

PRAECIPE FOR TRANSCRIPT OF
RECORD ON APPEAL

To the Clerk of the Above-Entitled Court:

Please prepare and certify a transcript of record on appeal to the United States Circuit Court of

Appeals for the Ninth Circuit in the above-entitled action, and include therein the following papers and proceedings. You may eliminate all captions, and other introductory matters so far as possible.

1. Indictment returned September 30, 1941 (copy of which is presented herewith).

2. Pleas of all of the Defendants.

3. Orders of the Court at the times when the case was called for trial.

4. All Praecipes for Subpoenas, together with Subpoenas and dates thereof of Witnesses for the Government.

5. Motion to Dismiss the Indictment for Want of Prosecution (copy of which is submitted herewith).

6. The Minutes of November 20, 1944.

7. The Minutes of January 16, 1945, January 17, 1945, January 18, 1945, January 19, 1945, January 20, 1945, January 23, 1945, January 24, 1945, January 25, 1945, January 26, 1945, January 29, 1945, January 30, 1945, January 31, 1945, February 1, 1945, February 2, 1945, and February 3, 1945.

8. The Decision of the Court on February 10, 1945.

9. The Record of Sentences on the part of all Defendants dated February 10, 1945, and February 19, 1945.

10. The Motion for New Trial and Motion in Arrest of Judgment and the Order Denying the Same (copies of which are submitted herewith).

11. Judgment and Sentence of the Court.

12. Bill of Exceptions and Orders Approving Same.

13. All Stipulations and Orders of the Court extending time for filing of the Bill of Exceptions (Copy of Stipulation and Order are submitted herewith).

14. Notice of Appeal and grounds of appeal (copy of which is submitted herewith).

15. The Assignment of Errors, Bail and Cost Bond on Appeal.

16. Stipulation re Consolidating Record for All Defendants (copy of which is submitted herewith).

17. Stipulation re Omission in Printed Transcript of Captions (copy of which is submitted herewith).

18. Stipulation re Assignment of Errors on Appeal and for the Transmittal of the Exhibits to the Circuit Court (copies of which are submitted herewith).

19. All Orders based on said Stipulations.

20. The Summons and Citation to the Corporate Defendants and the Return thereon.

21. Certified and engross Bill of Exceptions filed herein.

22. Assignment of Errors filed herein.

23. Stipulation and Order directing Transmission of Exhibits.

24. Copy of this Praeipe.

Dated: This 10th day of May, 1945.

A. BRIGHAM ROSE,
Attorney for Defendants and
Appellants.

Received copy of the within Praeipe this 10th day of May, 1945.

V. P. LUCAS,
Attorney for U. S.

[Endorsed]: Filed May 10, 1945. [140]

[Title of District Court and Cause.]

STIPULATION RE CONSOLIDATED RECORD FOR ALL APPELLANTS

It Is Hereby Stipulated by and between the United States of America by Charles H. Carr, United States Attorney; by V. P. Lucas, Assistant United States Attorney; for the Plaintiffs; and A. Brigham Rose, Attorney for the Defendants, as follows:

Whereas, Jacob Morris Danziger, also known as J. M. Danziger, Trinidad International Petroleum, Ltd., a Nevada corporation, and Wake De-

velopment Co., a Delaware corporation, were indicted jointly for the violations as set forth in the Indictment herein and were placed on trial jointly being tried at the same time before the same Court; and

Whereas, the above-named Defendants were each convicted of the said charges and were each sentenced on the 10th day of February, 1945, in punishment of said offenses; and

Whereas, each of said Defendants have served and filed a joint notice of Appeal to the United States Circuit Court of Appeals for the Ninth Circuit from the above-mentioned convictions and sentences; and

Whereas, said Appeals of the said Defendants raised many questions which are identical and the questions to be raised on the Appeals are in all respects similar and may be conveniently [141] determined upon the same Record, Transcript and Bill of Exceptions.

Now, Therefore, it is hereby agreed, as follows:

The Appeals of Jacob Morris Danziger, Trinidad International Petroleum, Ltd., a Nevada corporation, and Wake Development Co., a Delaware corporation, may and shall be made, prosecuted and decided on a single and consolidated Record, Transcript and Bill of Exceptions, which said consolidated Record, Transcript and Bill of Exceptions may and shall be used in all of said Appeals, and that the same may be heard thereon in the same

manner as if records have been filed by all three appellants.

CHAS. H. CARR,

United States Attorney; by

V. P. LUCAS,

Assistant United States At-
torney,

For the Plaintiff.

A. BRIGHAM ROSE,

For the Defendants.

The above Stipulation is approved and it is Ordered that the Appeals of Jacob Morris Danziger, Trinidad International Petroleum, Ltd., a Nevada corporation, and Wake Development Co., a Delaware corporation, may and shall be made, prosecuted and decided on a single and consolidated Record, Transcript and Bill of Exceptions which said consolidated Record, Transcript and Bill of Exceptions may and shall be used in behalf of all Appellants, as if the record had been filed by the respective Appellants in the several cases. Said consolidated Record, Transcript and Bill of Exceptions may present and preserve all Assignments of Errors and Exceptions by or on behalf of any of the Appellants.

-----,

United States District Judge.

[Endorsed]: Filed Nov. 14, 1945. [142]

[Title of District Court and Cause.]

STIPULATION RE OMISSION IN PRINTED
TRANSCRIPT OF CAPTIONS

It Is Hereby Stipulated by and between counsel for the respective parties hereto, that in the preparation of the printed transcript of the Record on Appeal in this proceeding, the captions at the top of all pleadings indicating the name of the Court, the name of the cause and parties, and docket number, may be omitted.

Dated: This 9th day of November, 1945.

CHARLES H. CARR,
United States Attorney; by

V. P. LUCAS,
Assistant United States At-
torney,
For the Plaintiff.

A. BRIGHAM ROSE,
For the Defendants.

It Is So Ordered.

Dated: This day of, 1945.

.....,
United States District Judge.

[Endorsed]: Filed Nov. 14, 1945. [143]

United States District Court

Claude McColloch

Judge

(Copy)

Zone 5, Portland, Oregon

Airmail

November 13, 1945

Mr. E. N. Frankenberger,
Deputy Clerk,
United States District Court,
Los Angeles 12, California.

Re: U. S. A. vs. Jacob M. Danizger, et
al., No. 15,173—Crim.

Dear Mr. Frankenberger:

I am returning to you the Stipulations which you transmitted with your letter of November 9th, unsigned. I am doing this mainly for the reason that it seems to me that the matters covered by the Stipulations should properly be presented to the Appellate Court. That would be the practice with us on an appeal from our court. Please file the original of this letter with the other papers in the case. Copies for yourself and the attorneys are enclosed.

Very truly yours,

/s/ CLAUDE MCCOLLOCH.

3 CC enclosed.

[Endorsed]: Filed Nov. 14, 1945. [144]

[Title of District Court and Cause.]

CERTIFICATE OF CLERK

I, Edmund L. Smith, Clerk of the District Court of the United States for the Southern District of California, do hereby certify that the foregoing pages numbered from 1 to 144, inclusive, contain full, true and correct copies of Indictment; Minute Order Entered November 20, 1944; Motion to Dismiss Indictment for Want of Prosecution, etc.; Minute Order Entered December 11, 1944; Order for Summons and Citation to Issue to Corporations; Minute Orders Entered January 6 and January 10, 1945; Summons and Citation to Trinidad International Petroleum, Ltd., with return of service; Summons and Citation to Wake Development Company with return of service; Minute Orders Entered January 16, 17, 18, 19, 20, 23, 24, 25, 26, 29, 30, 31, February 1, 2, and 3, 1945; United States Subpoenas and Subpoenas Duces Tecum with returns of service thereon; Motion for New Trial; Motion in Arrest of Judgment; Minute Order Entered February 10, 1945; Judgment and Commitment of defendant Willard Eugene Warren; Judgment and Commitment of defendant Jacob Morris Danziger; Judgments of Defendants Wake Development Company and Trinidad International Petroleum, Ltd.; Notice of Appeal; Minute Order Entered February 14, 1945; Bail Bond on Appeal; Minute Order Entered February 19, 1945; Amended Judgment and Commitment as to defendant Willard Eugene Warren; Stipulation re

Settlement of Bill of Exceptions; Order Extending Time Within Which to Prepare, Serve and File Transcript, Assignment of Errors and Bill of Exceptions; Praeceptum for Transcript of Record on Appeal; Stipulation re Consolidated Record for All Appellants; Stipulation re Omission in Printed Transcript of Captions and Letter Dated November 13, 1945, from Judge Claude McCulloch which, together with Original Assignment of Errors and Original Reporter's Transcript and Exhibits certified by the Trial Judge as the Bill of Exceptions, transmitted herewith, constitute the record on appeal to the United States Circuit Court of Appeals for the Ninth Circuit.

I further certify that my fees for preparing, comparing, correcting and certifying the foregoing record amount to \$33.70 which sum has been paid to me by appellants.

Witness my hand and the seal of said District Court this 4th day of December, 1945.

[Seal]

EDMUND L. SMITH,
Clerk.

By THEODORE HOCKE,
Chief Deputy Clerk.

In the District Court of the United States for the
Southern District of California, Central Division

No. 15,173

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JACOB MORRIS DANZIGER, also known as J.
M. Danziger, et al.,

Defendants.

ASSIGNMENT OF ERRORS

Now come the defendants Jacob Morris Danziger, also known as J. M. Danziger; Trinidad International Petroleum, Limited, a corporation, and Wake Development Company, Inc., a corporation, by their attorney, and say in the proceeding herein and in the orders and judgments entered, there are manifest errors, to-wit:

ASSIGNMENT OF ERROR No. 1

The Court erred in denying the motion made on behalf of the defendant J. M. Danziger to dismiss the indictment for want of prosecution.

ASSIGNMENT OF ERROR No. 2

The Court erred in denying the motion of the defendants herein for arrest of judgment.

ASSIGNMENT OF ERROR No. 3

The Court erred in denying the motion made by the defendants herein for a new trial. [1*]

*Page numbering appearing at foot of page of original certified Transcript of Record.

ASSIGNMENT OF ERROR No. 4

The Court erred in denying the motions of the defendants to quash the return of service on the corporate defendants as follows:

The first motion that I submit to your Honor is a motion to quash the return of service of the so-called summons and citation addressed against the Trinidad International Petroleum, Ltd., a Nevada corporation, named as a defendant in this indictment, upon the ground that it affirmatively appears by the records and proceedings and the proofs herein that no arraignment of said defendant was had as provided by law. That is, the only proof in support of the arraignment culminating in the plea, ostensibly, in behalf of said defendant, is the return of a deputy marshal of this district asserting that he left a certain citation with a stenographer in the law offices of J. M. Danziger.

I submit that this is not such service as is provided by statute or by the law; and while I recognize that this court, where a defendant regularly appearing before it stands mute and declines to plea, may very well, in fact the law provides that a plea of not guilty be interposed in behalf of the mute defendant who is properly before the court, I have been placed in the position of representing this defendant by a direction of the court.

Your Honor, undoubtedly, I recognize has the right to appoint counsel who are admitted as attorneys to practice law before this court to represent defendants who are before this court who are not represented by counsel; but I think I

would be remiss in my responsibilities and duties in this proceeding if I were not to [2] seriously and urgently present the motion that I am now making in behalf of this defendant.

Now, your Honor, may it be deemed, in behalf of expediency, that I am directing the same motion on the same ground and on each of the conditions submitted to the court in my motion, a similar motion in behalf of the corporate defendant Wake Development Company, a Delaware corporation.

ASSIGNMENT OF ERROR No. 5

The Court erred in denying the motion to quash the Indictment on the grounds that same had been procured solely on hearsay, as follows:

Mr. Rose: Now, your Honor, going over this indictment here I have been rather in a quandary in certain respects to determine, in part, at least the theory of the government's case. Your Honor will recall toward the closing phases of this case, just within a few days before the end of last week, your Honor addressed to opposing counsel a question concerning his theory of this conspiracy. On other occasions your Honor has asked him when he thought this conspiracy formed.

As your Honor observes from the record before you, I find this to be the case: The undisputed evidence in this case shows that the indictment in this case in the various counts were procured solely upon the testimony of Mr. Mainland and Miss Skinner, as I remember it, who was pres-

ent in court here. As your Honor remembers, Miss Skinner testified that this Mr. Warren approached her and told her something about an oil speculation in New Mexico. Then you have the hearsay of Mr. Mainland. In other words, the indictment in this case was not brought about by the valuable testimony of this paragon of virtue, Mr. Warren, who has come forward [3] here, after his apprehension, but it was in the main based upon surmise, speculation, and conjecture.

I was placed in the peculiar position in this case, your Honor, having been brought into it some three years after the indictment was returned and filed, and having taken the legal position that was addressed to your Honor in the incipency of your connection with this matter, I was placed in the position of opposing any proceedings on the theory that the court was without jurisdiction after this long delay, and in view of the intervening circumstances to proceed at all as against the defendant Mr. Danziger. At that time I was not appearing on behalf of the corporate defendants. Having assumed that position, I could not, paradoxically, your Honor, interpose any plea in the form of a dilatory plea. But, I submit that it now appears, at the conclusion of the government's case, that this indictment was procured contrary to all legal concepts and principles, namely, the various and several counts of this indictment could not, possibly, according to established principles of law, be properly returned on this hearsay and the flimsy testimony of Miss Skinner.

In the normal course of events, had this case progressed along the usual or normal lines, namely, the defendant is brought in shortly after his indictment and is required to join issue, I submit to your Honor I would have made a motion to quash the indictment on the ground that it was procured illegally and contrary to the laws of the United States. It was procured purely on hearsay and on unsubstantial evidence to warrant and support the indictment.

For that reason, now that these facts appear evident at the conclusion of the government's case, I address to your Honor a motion to quash the indictment upon the grounds that the same was procured contrary to the laws of the United States, in violation of the constitutional provisos, namely, due process, the equal protections of the law and the statutes in cases concerning the subject [4] of the requisite evidence and character of evidence that is essentially required in order to vote an indictment against an accused and put him to trial.

The Court: Mr. Lucas, I will hear you.

Mr. Lucas: I don't care to be heard unless your Honor wants me to be heard. First, the government's theory is that a motion to quash the indictment, as announced and argued by counsel for the defendant, raises no substantial question that this court can pass upon at this time. All matters occurring before the grand jury, and anything antecedent to the indictment, must be raised either at the time of plea or prior thereto. The question

of who testified before the grand jury and who didn't are all questions that cannot be raised.

The Court: At all

Mr. Lucas: At this time. And if raised must be raised in a different manner than it is here attempted to be raised.

The Court: What manner?

Mr. Lucas: The mere fact that the witness has testified here, Mr. Mainland and Miss Skinner, that they were persons who testified before the grand jury, does not work a constitutional defect in any manner, or deprive this defendant or any of the defendants of their constitutional rights. That is all that there is before this court, I think, some few words by Mr. Mainland, under cross-examination by counsel, and some few words by Miss Skinner, as to her testimony before the grand jury.

ASSIGNMENT OF ERROR No. 6

The Court erred in denying the defendant's motions made at the close of the plaintiff's case and renewed at the close of all of the evidence introduced in said case to dismiss and quash the case upon the grounds that the evidence was insufficient to show [5] the commission of the offenses alleged in the indictment—which motions were presented as follows:

Mr. Rose: Your Honor, I have made a little outline of the various counts of this indictment here. Now, I find, for example, in the first count that the defendants are jointly charged as having devised and intended to devise a scheme to cheat a class of persons, and then they refer to the stock-

holders of the Great Eastern Gas Company, and then of several mining companies, naming them. Now, they proceed to outline the fraudulent pretenses, promises and representations concerning the Trinidad International Petroleum securities, its operations and personnel was fraudulent. Then they state that among the scheme outlined was to misrepresent that the stock was listed and traded on the Stock Exchange in London.

While I am on this one point, I will make my observation; that they haven't even proved or pretended to prove that the stock, in fact, was not listed or traded on the Stock Exchange of London. And in that connection, I submit, your Honor, that there isn't a scintilla of proof that Mr. Danziger or the two corporate defendants ever represented to any one, either by way of voice or by way of a document, that the stocks were in fact listed.

We, of course, know from Mr. Warren, Carter, and what-have-you, that he told some of these people that the stock was listed. But he doesn't claim or pretend to claim that he was ever told by any of the other defendants on trial that he was directed to make any such representation.

So we have before us what? We have, firstly, the failure on the part of the prosecution to establish that the stock wasn't, in fact, listed. In so far as the corporate defendants are concerned in each and every instance there is a letter on file that the stock was never listed. So, so far as any representation on the part of the defendants on trial, there is an utter failure to prove. [6]

The Court: What is the letter you referred to?

Mr. Rose: Your Honor will remember in this group of letters that was sent on to some of these stockholders here, the letter in each instance specifically declares that the stock was not listed. Does your Honor remember that?

The Court: If you say it is there, why——

Mr. Rose: Yes, your Honor, in every instance, so far as the defendants on trial are concerned, the unqualified proof here is that they were informed that the T.I.P. stock has never been listed on any stock exchange, and the only time that it has ever been traded has been over the counter, so to speak, in the United States and England. That is the state of the record.

Now, the nebulous thing, as I remember it, in which this Mr. Warren was inclined to create an inference, was that, your Honor will remember, he said that while Mr. Danziger was in England he sent him a newspaper showing stock market quotations, and he wrote to him, "Well, you know how to use this." That is the extent to which this gentleman went. And I don't have to argue that; I am not going to try to argue, your Honor, what inference to draw from any of these matters. I just wanted to be sure that I present to your Honor, as I discuss these points, everything that is in the record. I thought it my duty to call your Honor's attention to that nebulous little thing that is there.

Now, then, so far as the defendants on trial and the charge in the indictment that a scheme was devised, you find from the evidence here, even revers-

ing the process that the law imposes upon us in a judicial proceeding, namely, to draw the inferences in favor of innocence and against the criminal intent, you find, one, that there is no evidence that in this alleged conspiracy prior to the leaving for England, and contrary to opposing counsel's contention that this scheme was planned long before Mr. Danziger left for England, you find neither in cross nor direct testimony on the [7] part of Mr. Warren that there was any scheme or discussion respecting a representation that was to be made or ever considered to any prospective purchaser of stock that the stock was listed on the stock exchange, and, yet, this is listed as a part of the scheme, and you have no less representation to the court by Mr. Lucas that this so-called scheme and conspiracy, concerning which we have heard so much from him, originated prior to Mr. Danziger's departure for England.

Now, then, the second item, in line, in this so-called scheme was that Danziger was to receive the money for the securities or cause the corporation to receive the money and property sent in by the persons to be defrauded, and then distribute a part of it to defendants.

Now, what is the record in respect to the so-called scheme and conspiracy in 1935, prior to the departure of Mr. Danziger? The record shows there was an agreement entered into which agreement must, presumptively, be deemed to have been according to law and not fraudulent. It wasn't an agreement between these two defendants it was an agreement between the Great Eastern Gas Com-

pany, which they themselves have introduced, in writing. The agreement provided, and the evidence shows that the agreement was made between a brokerage firm and the Great Eastern Company in Delaware, in which 20,000 shares of the personally owned shares of stock of Wake Development Company were deposited in escrow, and when Mr. Danziger left for England the proceeds were to be handled in this escrow. So, contrary to the charge in this indictment, there never was an arrangement, so far as the undisputed and uncontradicted evidence up to this point in this case shows, that there was ever any such scheme as they outline here.

In other words, there was a valid agreement not between these defendants, but between the Great Eastern Company and its duly authorized representatives, not the co-defendants. The agreement, presumptively, they have introduced, and offered no evidence to the [8] contrary, that it was entered into in good faith; there was an escrow made, and this escrow company in Delaware was delegated, and under the arrangements then existing and continuing to exist until long after the departure of Mr. Danziger to England this Delaware Company this trust company, were to handle the proceeds from this particular sale of Wake Development Company personally owned stock. That is the state of the record in regard to the second so-called false pretense and scheme, which is controverted by their own evidence. They have introduced the agreement, they have developed in their testimony,

through Mr. Warren, that an agreement was entered into not between Carter or the persons that they mention—and, incidentally, the government has left me in a quandary, I don't know how your Honor feels about it,—they name W. W. Wright and they name some others, they don't mention the Great Eastern Company or Dube or any of these persons, who were the parties to this agreement, and we don't know yet what omnibus fishing expedition they had in mind at that time when they politely voted the seventeen-count indictment. So I point out to your Honor that part of the scheme fails of any proof.

Now, I have noted the third. They say part of the scheme was to use fictitious names by persons calling on persons to be defrauded, and give them fictitious addresses. What is the state of the record, as I recall it, on that part of the scheme? Mr. Warren testified here that the first time he resorted to the use of fictitious names was after the Pierce transaction which occurred after the departure of Mr. Danziger to London, and your Honor will remember that exhibit that Mr. Warren admitted signing, that letter in which he wrote to Mr. Danziger protesting against the prompt cancellation of this whole deal. The undisputed evidence by these cablegrams from England, and the cable sent by Warren, incidentally, your Honor will remember it is in evidence, was begging that the cancellation of this whole deal be set aside, and Mr. Warren who at [9] that time tells us he was neutral, sends over to England that writing in the letter saying

there was no necessity for any crooked work, this sale could have been made clean and there wouldn't have been any complaint, there could have been \$100,000 sold, and it shows what a warped mind will do.

I wonder what a warped mind is according to the mental processes of this individual?

But, in any event, he himself admits he was pure at that time, he admits it. So where is there any discussion——

The Court: You say he was neutral.

Mr. Rose: He says he was neutral. He said he left it neutral. I don't know what that means. But you notice he outlines there was no necessity in connection with \$100,000 of this stock that could be sold to one person, Mrs. Pierce, of doing it in anything but a clean manner. What does the state of the record show? The state of the record shows that at the first sign of any improper conduct Mr. Danziger repudiates and cancels the whole agreement. There it is at an end. The evidentiary record, the documentary record, clearly shows that. There can't be any argument about that, and he himself says that he didn't resort to the use of any fictitious names until 1936. So where have we anywhere in the record that segment of this so-called arch conspiracy?

Now, I made a note as to the fourth part of this scheme. It says J. M. Danziger and the corporations would pretend they did not know the persons who had called on persons when they made inquiry of the company.

Now, my recollection is that it is Exhibit O, Defendant's Exhibit O, which Warren acknowledges sending, which shows that he wrote in November after Danziger had been in London for quite a while to Faulkner in the Wake Development Company, in which he begs to carry on and states that it will all be clean and there won't be any misrepresentations, and so forth. [10]

Now, then, where is there any evidence, if opposing counsel's theory is to be given any consideration, that this conspiracy was something that occurred at the time he claims it occurred or at any other time? Where was there any agreement that these persons should use fictitious names, and that they should use false addresses and so forth? The fact of the matter is, as the record evidence shows, letters went out and they have introduced that, before and after Mr. Danziger's departure to England, on the letterhead of the Trinidad Corporation, outlining that an agreement had been entered into between Wake and the Trinidad Company, that is, between the Trinidad Company and the Great Eastern Company, in which they were to be given certain rights. The names of the personnel of the Trinidad Company are all outlined. In fact, there is a succinct declaration of their background antecedents and history, and their addresses, and, mind you, the escrow arrangement with the Commonwealth Trust Company and the Great Eastern literature certainly gave their addresses, and even Warren who was so anxious to assist us here admits that he didn't use any fictitious name prior

to 1936. So, where is there any evidence, be it so nebulous, that supports this fourth segment of the so-called scheme that counsel says occurred in '35?

Now, the fifth segment of this scheme. Your Honor, I will just show you how inconsistent these people are, and will show you they have just gone out with a bucket shop fire and show you you can't depend on them, they don't know themselves when this so-called conspiracy is presumed to have started. They say, for example, that a part of the scheme was for J. M. Danziger to use fictitious names in transmitting the funds to the other defendants. Now, in that connection, your Honor, what is the state of the record?

The state of the record is that the original plan, the Great Eastern Company received two-thirds of the proceeds, the [11] escrow arrangement with the Commonwealth Trust Company, received two-thirds of the sale, that was the arrangement made preceding the going on of Mr. Danziger to England. Now, where is there any evidence that an agreement was entered into to transmit the funds? In 1940, and if my memory serves me, somewheres in December, 1940, there appears to have been another transmittal of some postal money orders and Western Union money orders to a man named Carlton. Now, they were transmitted, as your Honor remembers, under the name of "A. Levy" and in one instance "T. Mack." Now, that is something that occurred in 1940 to a man named Carlton.

Up to a change in the position taken by Warren,

he testified, as I remember, that he never used the name Carlton prior to 1940. He may have used it in the latter part of '39. Now, there isn't a scintilla of evidence to show, even by the testimony of Warren, or Carter, or what-have-you, that he ever told anybody that he, Carter, Warren, or whatever he is, ever represented that he was Carlton to any of the defendants on trial.

So your Honor will see, as I pointed out to you, that this indictment and a lot of the allegations that are set forth in here, is a conglomeration of bits of surmise and conjecture.

I have no quarrel with Mr. Mainland; I think that his intentions are the highest and most honorable; I commend the SEC for their work, they have done a very splendid work; but Mr. Mainland, in his zeal to follow through on this investigation into this corporation, as the record reflects, your Honor, ascertained that these transmittals of the postal money orders to Carlton, and the Western Union, were made, by reason of the examination here, as late as June, 1941. So that is the first time that Mr. Mainland in his check-up of these transactions finds out the bald fact that in 1940, in December, or thereabouts, a transmittal of money was made to Carlton in New York with the name of "A. Levy" in most of the instances, and in one instance the name of "T. Mack." [12]

So that fifth part of the scheme, if it was a scheme, couldn't possibly have come into being until 1940. The first time that any one who appeared before the grand jury—and it can't be Miss

Skinner—that submitted that valuable piece of evidence to them, was Mr. Mainland's evidence or surmise as to what this so-called plan or scheme was, acquired by him in 1941, in June.

Now, that is the record in connection with that phase of the case. If I haven't made myself clear, your Honor, your Honor must keep in mind the '35 agreement was in escrow between the Great Eastern, and they were in agreement to receive the money, and they weren't to receive it in the name of Carlton; and I don't see the significance, although the prosecutors frequently attach great importance to the fact that a transmittal was made in the name of "Levy," or let it be Jones, or what-have-you; they don't bother to find out why or how or the facts about it, but to them that is very significant.

I know that your Honor doesn't share that view, from a number of observations your Honor has made in the course of these proceedings, whether a person of that name exists or not.

Now, the sixth part of the scheme as I have noted here from my analysis of the indictment is that part of it that Danziger, Wake, and the Trinidad Company were to write to persons to be defrauded—no, when replying to persons, incidentally, not that had been already defrauded, but they use the language "to be defrauded"—we know what that means from Hamlet—"would secretly submit such letters to the defendants who had called on them for the advice of such other defendants respecting the reply to be made."

Now, we have all the letters that reputedly were

sent. We have them here twice, in duplicate, that is, the carbon copies, and we have the originals in many cases which were introduced by the stipulation, Mr. Mainland asserting that he received it from the addressee, and they are in evidence. Now, here again, according [13] to the documentary evidence, we have no evidence that there was ever such agreement whatever. There is no discussion. Mr. Warren in his testimony outlining in his way the discussion of how this thing was to be handled has gone in at great length about this, and we find, apropos of opposing counsel's representation to your Honor that this scheme occurred in '35, we find here by undisputed proof that there wasn't any such program at all. The program was that \$20,000 of Wake's privately owned stock in the Trinidad Company was to be and was pursuant to an agreement deposited with a trust company in Delaware, by reason of an agreement in writing between the Great Eastern Gas Company and the Trinidad Company; hence, there isn't anything to this at all. If Carter or Warren or whatever he is wrote to Mrs. Faulkner in Los Angeles during the absence of Mr. Danziger in England, and it is not disputed he was there from I think September '35 to July '37, if any such arrangement was made that he was to get a copy of any letter, that was an arrangement made which is left in the metaphysical realm, for the reason that there is nothing definite about it to indicate when that arrangement was made, and between whom; and of what criminal significance is it that a copy of any letters sent to any

inquirer was sent to the Great Eastern or its representative? The evidence as developed up to yesterday shows that the Great Eastern still had an office in 1940 in New York City in the Longacre Building, to which communications were addressed.

So, your Honor will see that here, again, counsel for the government is not sure of his ground at all when he told your Honor this conspiracy was formed, the one they claim culminating in this indictment, supposed to have been formed in 1935. And we know there wasn't any such arrangement whatsoever made, according to the oral testimony or any of the proofs in this record. So much for the sixth.

Now, the seventh item here says that part of the scheme [14] was that J. M. Danziger and Wake and T.I.P. should appear to be reluctant to take the money and property of the persons to be defrauded.

Now, when did this phase of this jumpy scheme take place? I am in a quandary to know where the government contends that there is any evidence that that was part of the scheme. It is true that in two instances, as I recall, I think one of them is a Mrs. Lawyer, there are three letters that go to her in which the Wake Development Company turned her down, they tell her that they don't want to make the deal. Now, those transactions are in '39 and possibly in '40, I am not certain without examining them, but I am quite sure that those particular transactions in which the government has introduced correspondence shows that the Wake

Company didn't advise, indicate to the persons making the inquiry, that they had any inclination or disposition to make the deal. So, when does this stage of the conspiracy that opposing counsel tells your Honor was generated in 1935, when does this come into being, and between whom?

Now, as I pointed out, I am not sure of the language, but I remember in the case of *People v. Blackman*, it is either in 124 or 127 Cal., one of our Supreme Court decisions, it stands out in my mind, that case in the discussion of documentary evidence points out that you do not introduce a document into evidence for the purpose of proving, in the absence of specific proof, that it doesn't mean what it says. In other words, of course, I can establish that a document is a forgery; but I would proceed to prove that the document is not what it is by evidence that it is a forgery. But if I offered in evidence to your Honor in this case a document, and if by that document I seek to prove criminal intent or purpose, I can't introduce that document and then merely say that in my opinion that letter is just a sham, it is a phony.

Here are a series of communications going over the course [15] of a year, and the company says, "If you think this is anything but a highly speculative stock, don't buy it. We advise you against it."

Now, when did that part of the scheme, so-called, come into being? The letters that they refer to are letters in '39 and '40, so could that possibly have been the part of the conspiracy that opposing

counsel tells your Honor occurred in '35, or for that matter in '37?

Those are the only two occasions when Mr. Warren, Carter, and so forth, ever met Mr. Danziger.

Incidentally, in passing, while I am thinking about this thing, what does it show your Honor? It shows he saw him a few times before he left for England in '35. He never even so much as had lunch with him or went out together. Can you imagine a couple of henchmen of his ilk, conspirators, who don't even go out and have a cup of coffee together or something? And then when does he meet him again? Twice or three times in '37 upon his return from England, at which time he tells him that he has been convicted in Illinois.

Now, your Honor, the next item that I notice that is a segment of the indictment is the contention that part of the scheme was to use the mails and telephone and telegraph in dealing with the persons to be defrauded, and with each other.

Now, that is a rather vague and ephemeral allegation. We do know that the agreement which the government has introduced in evidence provided that the Great Eastern Gas Company were to circularize their stockholders, advise them about the arrangement made with the Trinidad Company, and offer to them a right.

Now, as I pointed out, no evidence was even sought to be presented that that agreement was not a bona fide and legitimate agreement between Great Eastern and Trinidad. Now, the use of that mail and the exercise of that right couldn't possibly be

given any criminal significance. So this generalization is meaningless. [16] As far as the telephone is concerned, nobody has come forward and said that Mr. Danziger or any representative of Trinidad or the Wake Development Company ever advised any salesman, "You go to a telephone and you tell that person a pack of fabrications."

We know that the telephone was resorted to surreptitiously by one Warren in this case; but even he has not assayed to tell your Honor that he ever received any such instructions from any of the defendants.

If this was part of the scheme, when did this segment of the scheme come into being? Certainly when Mr. Danziger left for England, as I have pointed out before, there is not a shred of evidence that any such scheme was even discussed or outlined.

So, as I say, this allegation is one of these generalizations that doesn't tell us anything.

In other words, I want to make it clear that I don't condone some of this reprehensible conduct on the part of the defendant, or former defendant Warren, in this voluntary resort to this tricky activity on his part in telephoning to some of the persons we know he did, according to that person's testimony and his own.

Now, these are things that occurred, again, in '38 and '39. Now, when did this part of the conspiracy, if it is a part of the conspiracy, come into

being, and how was it brought about? In that regard there isn't anything here to help us or assist us.

Now, following these specific outlinings of the so-called scheme, there is an enumeration of the representations.

The first is: T.I.P. owned valuable oil lands in Trinidad, New Mexico, and producing oil from its properties, had commercial wells thereon, and was in prosperous condition.

What is the state of the record in connection with these so-called representations? We do know, your Honor, that Warren, according to his confession in open court, and according to the testimony of two witnesses, at least, that came here, did make [17] statements in connection with some of the phases of the outline that I have just referred to. But what is the record evidence? The prosecution as late as yesterday introduced into evidence an exhibit produced from Warren or by him outlining the status of the Trinidad Company. The evidence shows that in the discussions with Danziger he had come there to New York to make some preliminary arrangements, and then went to England for the purpose of making arrangements for finances. Where does the government contend that the defendants who are on trial now ever told Warren or anybody else that they were producing oil?

There is a prospectus that has been introduced into evidence. The S.E.C. had authorized the sale of 200,000 shares of that company's stock at \$5 par. The evidence of all documents shown and the

discussions up to the time of Mr. Danziger's departure for England, show that the only representation made so far as any defendant or its representatives are concerned, at that time, concerning the condition of finances of the company, were correct and true. There wasn't any discussion about misrepresenting them. As a matter of fact, the record shows that they hadn't any funds. That is what they were trying to raise. They had applied for permission to raise it in a lawful and proper manner. And so far as the fact that the T.I.P. had valuable oil land, there isn't a word of evidence in this case to the contrary.

I would like opposing counsel here to point out to your Honor where he has introduced anything that may be considered in the guise of evidence, either oral or documentary, that the Trinidad International Petroleum is not, perhaps, one of the most outstanding potential oil developments in the world. He hasn't produced any evidence.

I asked Mr. Mainland, "Did you ever find in your investigation"—and I was pretty broad—"did you ever find that that British geologist"—Craig, I think is his name—"who is [18] considered one of the most distinguished geologists in the world, did you ever find that man's report on the Trinidad International Petroleum lands was inaccurate?" And he said, "No, I never found anything to the contrary."

"Did you ever find out that they didn't have a couple of oil wells on there which were not in operation?" He said, "No."

Then what are we to do? Are we to assume, your Honor,—and that, apparently, is what opposing counsel has in mind, are we to assume that just because he prefers to think so, that this Trinidad International Petroleum Company is a hoax; and yet it is not disputed in the files and records of the S.E.C., and Mr. Mainland admitted he didn't find anything to the contrary, there had been a half a million dollars put into this project before Danziger, the Wake Development Company, or Trinidad International Petroleum even takes hold of it.

The leases displayed to Mr. Warren, the so-called, shall I say front or rear end of the so-called conspiracy, are in evidence. He says they were shown to him. Now, they speak for themselves.

Now, if your Honor will outline—where is that, one of the last prosecution exhibits that came in here last night?

Here, your Honor, as a part of Exhibit 112—and they have introduced that—is the “Information for company representatives relating to offer of Wake Development Company of shares and notes of Trinidad International Petroleum, Ltd.,” and your Honor will see what the representations are. And it is the undisputed evidence that this is the thing that was handed to Mr. Warren, and that will tell you what representations were made.

As I say, your Honor, this is sheer speculation. So far as this court knows, so far as any one knows, from the record evidence here, we have a geologist's report, who is reputed—and it is not disputed—to be one of the most eminent geologists in the

world, he gives a report on these lands, he reports on the [19] character of oil that is prevalent there, he reports on the fact that there are a couple of wells on there.

Now, who told Warren or anybody else that they were pumping oil? I would like opposing counsel to tell me who assertedly testified that such representation was ever made by any of the defendants on trial.

I don't know what this man Warren may have told some of these people. He may have told them that they had gushers on there. But where do we fit in in that representation?

What is the state of the record in regard to whether the rights were of value? Is there any evidence that they weren't of value? These persons who allegedly were hoodwinked and defrauded, in the main, so far as I can recall, paid \$3 or \$5 par stock and received the \$5 preferential note. The testimony so far as we know is that the Great Eastern Gas Company stock was of no value. That is their charge and that is their contention, and we don't take any issue with them on that. Now, on what assumption can the government claim that the rights were of no value, having failed even to take the trouble to find out the potential value and the potential value that the stock may acquire or could acquire?

As your Honor will notice, nobody returned the stock. So far as the record shows, they are still hanging on to it. They were picked up here by the government at their request in connection

with their investigation; but there was no surrender made of it, or even, for that matter, an offer of surrender. .

Now, the agreement introduced in evidence here between the Great Eastern Company for the issuance of those rights was an agreement that was entered into bona fide with an escrow, and so forth, and we cannot assume that the rights were or are of no value. There isn't any evidence to that effect, even an opinion.

We do know that there was no discussion asserted to be had between Mr. Danziger or any representative of the corporate [20] defendants with any other person that the stock was, in fact, listed on the London stock exchange.

I can point out to your Honor in every letter that went over to any one of these persons that there is an unqualified and definite declaration that it is not listed and never has been.

Shall I point that out to your Honor?

The Court: Yes, if you wish.

Mr. Rose: "These notes are not listed and are traded over the counter. We have been advised that sales have been made during the past year, prices ranging from 12 to 20 shillings or the equivalent of 3 to 5 dollars American money."

Your Honor will find that representations on the Wake letterhead to these persons who were asserted to be defrauded in every instance. They are specifically advised that they are not listed.

I do not try to state to your Honor that Warren or Carter or his henchmen did not tell these

people that they were listed; but I say where is there any evidence that we were a party to that or ever agreed to it? That is the point I am urging. They don't claim that we ever stated that it was listed on the stock exchange.

I can show you letter after letter, the minute that question comes up, without equivocation, without any hedging, any person who made inquiry respecting this Trinidad stock was told that the stock had never been listed on the stock exchange. And as far as the price is concerned, no representation is made that it ever brought any more than the par.

That is the point that I want to point out to your Honor. They say the representation of listing in London. That representation was made by these connivers and contrivers who were acting in cahoots with Mr. Warren. But I want to know where is there any testimony that we were ever privy to that, or ever even discussed it,—when our letters definitely show that it was not listed. [21]

There is the other phase which I think is a detestable thing: that trick that Warren seemed to be so proud of in calling on some of these persons, telling them that he was a representative of some Sterling Company in Canada who were interested in buying up the preferential notes at a higher price than the par, or something to that effect. We know he did it. He confesses he did. But where is there any evidence that we, the defendants on trial, were ever particeps criminis, or participated, or even were privy to such thing?

As a matter of fact, you will find in the docu-

mentary evidence that wherever that question came up we denounced it and repudiated it and made it quite clear that no such representation was ever authorized.

As I say, although that misconduct, and I certainly confess that it is, that strategem resorted to on the part of Mr. Warren and his henchmen is not to be condoned, nor is he to be applauded for it, where does the government contend that we, assertedly, entered into a conspiracy of that type, and when did we do it?

There is that reference to the fact that a note was sent in 1940 to be signed by Mrs. Parsons for the balance due for the certificate.

That about concludes an analysis and diagnosis of Count 1.

I respectfully submit to your Honor, so far as I can glean from the most impartial approach to a consideration of the evidence in this case, where is there anything to uphold any one of these segments of this so-called conspiracy?

You will find as we review the evidence in this record up to the present time that something of this character that is hinted upon in here occurred in 1940 for the first time, something occurred in '39, something of that character occurred in one instance in '38; but if the government's representation to your [22] Honor is correct that this conspiracy charged in the indictment was formulated in 1935, how can we reconcile these divergent plans in the face of the fact that even Warren doesn't confess that he ever discussed with any

of the defendants or their representatives on trial the subject of resorting to the tricks and devices that he employed?

The Court: May I ask you a question now? Your plan, I take it, is to make a complete argument, as you have been doing on count 1, as to all of the counts? You are going to state another motion pretty soon?

Mr. Rose: Yes.

The Court: Your plan is to make a complete argument as to all of the counts at this time?

Mr. Rose: That's right.

The Court: That would call upon you to make a full statement of the government's position, Mr. Lucas, and I would like for you to be prepared to follow Mr. Rose as he concludes as to each count. Do you see what I mean?

Mr. Lucas: Yes, I shall try to follow that.

The Court: That is what I am going to have you do. Instead of hearing Mr. Rose clear through on all of the 17 counts and then hear you in answer to them, when he finishes, as he appears to be doing now, his discussion about count 1, then I will want you to answer, as however you think it should be answered, his discussion up to that point.

Mr. Lucas: Yes.

The Court: Then I will hear him again and then I will hear you again.

Mr. Lucas: Very well.

The Court: And so on through the 17 counts of the indictment.

Mr. Lucas: I have been listening very carefully to Mr. [23] Rose——

The Court: He hasn't finished.

Mr. Lucas: It was only in the last two or three minutes that I discovered that he was talking about count 1. I thought he was making a general resume.

The Court: I don't know that he is through. I saw you pulling yourself together like one does when they are being called on. I wanted you to know how I am going to split up this discussion, so you could plan accordingly.

You haven't finished?

Mr. Rose: If it is agreeable to your Honor, and I think it is a very happy proposal and will expedite things, as to each count I am disposed to defer presenting the motion until the government indicates their position on the count.

The Court: No, no; I want you to state your full position as to each count separately.

Mr. Rose: Very well.

Your Honor, by reason of the matters and things that I have outlined to the court in an analysis of the allegations and the proofs in respect to the recitals, charges, allegations, contentions, set forth in count 1, and the evidence thereon, in behalf of the defendant J. M. Danziger, as an individual, I move that the same be quashed and dismissed upon the following grounds; severally: One, that it does not appear by the government's evidence that the defendant J. M. Danziger, individually and personally, participated in that degree requisite

and required by law to bind him as an individual in any of the asserted acts supported by any of the proofs offered by the government of the divers acts and things charged in the first count of the indictment, and upon the ground that there is a failure of evidence of any competency to establish that the defendant J. M. Danziger, individually, was privy to or actually participated in or personally authorized any of the [24] acts shown by the evidence presented to this honorable court in support of count 1 of the indictment.

The Court: Now, complete your motions as to that count.

Mr. Rose: I, therefore, move that said count as to J. M. Danziger, personally as an individual, be quashed and annulled.

The Court: Now I will hear you, Mr. Lucas. I realize, of course, that the argument both of Mr. Rose and by you, Mr. Lucas, will be longest as to this count, because it involves a discussion of the major background to all of the counts, but we have fifteen minutes, and you might just as well begin.

It is five minutes to 11:00.

(Short recess.)

ASSIGNMENT OF ERROR No. 7

Mr. Rose: Your Honor, at this time——

The Court: Go ahead and give me all of your remaining motions, Mr. Rose.

Mr. Rose: Very well, your Honor.

At this time I am addressing to the court a motion to quash and annul—yes, I have it—Count 2 of the indictment herein—wait a minute. I will withdraw that, your Honor.

I submit to your Honor a motion to quash and annul Count 1.

The Court: You hadn't stated that?

Mr. Rose: No, I hadn't your Honor. I thought I neglected to address that motion as to the defendant Trinidad International Petroleum, Limited, a Nevada corporation, upon the grounds, in addition to the analysis of the evidentiary matters and contentions contained and set forth in the indictment as presented in the motion in behalf of the defendant, J. M. Danziger, individually, and I incorporate those matters by reference, and [25] add the ground that there is absolutely no evidence that this corporate entity at any time participated or was a party to the alleged conspiracy set forth in Count 1.

I now present to your Honor a motion to quash and annul Count 1 as against the corporate defendant Wake Development, a Delaware corporation, upon each and all of the grounds heretofore submitted in support of the motions on behalf of the defendant J. M. Danziger, individually, and the Trinidad International Petroleum, Limited, a Nevada corporation, and adopt all of the grounds presented in behalf and in support and as grounds for the granting of said motion.

At this time, your Honor, I move in behalf of the defendant, individually, J. M. Danziger, to

quash and annul and set aside Count 2 of the indictment upon the following grounds: Count 2, in addition to merely realleging and incorporating by reference—they don't say it, but we will assume that is what it means—all of the allegations of Count 1 except the last two paragraphs, this count purports to make it an offense and alleges the violation of the laws of the United States, particularly Section 17 (a) (1) of the Securities Act of 1933, by the allegation the defendants, in the plural, on May 8, 1939, in the sale to Florence Lawyer placed in the mail in this jurisdiction a letter, that letter is set forth in the form of a facsimile, or, rather—it will show you what happens to your mind; I can't think of what they call this process for the moment.

Mr. Mainland: Photostat.

Mr. Rose: Photostat of a letter bearing Los Angeles postmark of May 8, and addressed to Mrs. Florence S. Lawyer. This letter, your Honor, on the letterhead of the Wake Development Company, and bearing the signature of [26] "A. Faulkner" merely states: We acknowledge receipt of your letter of May 3rd with enclosure of certificates, specifying certain shares of the Golden Quebec Mines stock, and your check in the amount of \$390.00, and certificate for 111-3/7ths shares of Trinidad International Petroleum, Limited stock and units of preferential profit sharing notes will be forwarded to you by registered mail within a few days.

I submit, your Honor, that that reputed act ap-

parently is designed to be an overt act in fulfillment of a conspiracy. This multitude of allegations adopted by reference. But, I submit, your Honor, that the sending of this letter cannot possibly legally be construed as being an unlawful act or the use of the mails as defined by said Section 17 (a).

The Court: Mr. Lucas, will you give your characterization of 1 and 2? You don't need to get up.

Mr. Lucas: Yes, your Honor.

The very closing words of the letter itself show it is well within the statute——

The Court: No. What are 1 and 2? What kind of counts are Counts 1 and 2 by the government?

Mr. Lucas: Those are Securities Act counts. And the very closing words of the letter——

The Court: They are not mail fraud counts?

Mr. Lucas: No; there is a companion mail fraud count. Count 15 is a companion to Count 1, but they are Securities Act counts, and the very closing part of the letter brings it within the statute.

The Court: That is what I wanted from you now. Continue.

Mr. Rose: Your Honor is undoubtedly familiar with 17(a) [27] of the Securities Act of 1933 as amended, or shall I read it to your Honor?

The Court: Don't assume that I am familiar with too much, Mr. Rose.

Mr. Rose: The charge in this particular count, your Honor, is set up as an alleged violation of Section 17 (a) (1) of the Securities Act. Now,

this Act is in the form of a mail fraud statute in that it says:

“It shall be unlawful for any person in the sale of any securities by the use of any means or instruments of transportation or communication in interstate commerce or by the use of the mails, directly or indirectly——”

Subdivision (1), which is the one that we are relying upon:

“to employ any device, scheme, or artifice to defraud, * * *”

I submit that by no stretch of the imagination can this letter, and I have read it, be deemed or regarded as the use of the mails as defined by Section 17 (a) subdivision (1).

The Court: Where do you think that would be in U. S. C. A., what volume?

Mr. Rose: U. S. C., Section 77q, subdivision (a).

The Court: Is that in the main part or in the back of the book, do you know, Mr. Lucas?

Mr. Lucas: It is in the main part.

The Court: 77q——

Mr. Rose: It is 77q, Subdivision (a).

The Court: What page?

Mr. Lucas: 456.

The Court: 77q, which is entitled “Fraudulent Interstate Transactions?” [28]

Mr. Rose: That is correct.

The Court: (a) reading:

“It shall be unlawful for any person in the

sale of any securities by the use of any means or instruments of transportation or communication in interstate commerce or by the use of the mails, directly or indirectly——”

Now, you proceed, Mr. Rose.

Mr. Rose: “to employ any device, scheme or artifice to defraud.”

I don't think it would be very helpful to your Honor, but I may make the observation so you would have my theory about it, but I would construe that statute to be a statute on a specific offense where interstate transportation is used in perpetrating a fraud.

Now, this particular act here, your Honor, is the sending of this particular letter. Now, the letter is an acknowledgment of a receipt of some money, and it merely declares that they are going to send some stock by other mail, and it is an act of the Wake Development Company.

There isn't anything that I can find in this count or in this act that would constitute a public offense. Certainly it is no public offense on the part of the defendant, J. M. Danziger, in whose behalf I am relegating this motion, it isn't even his act, and isn't the character or type of an act denounced by the Code or by the Securities Act.

In other words, I say I have received your check, and so forth, and I am going to send you some mail. They are not going to try to sell her anything here. Whatever transaction has already taken place has already taken place not through

the use of the mails or the use of any form of interstate transportation. There isn't any evidence here on the part of Lawyer, anyhow. The only thing we have is the statements that Warren testified to in his [29] transactions with her. But that isn't what is charged here. They are attempting to set up a substantive offense as a distinct crime by the sending of this particular communication.

In other words, I have in mind, your Honor, so your Honor will not think I am confused on the legal ramifications of this, that overt acts where a conspiracy has been established committing a particular crime, I recognize that each overt act is a separate offense; I am not in the least bit confused about that. But I submit that there is no evidence whatever to hold or charge, even, the mailing or the participation in any manner or respect, of this particular communication, on the part of Danziger, and I submit it on those grounds.

They are trying to make a substantive offense an overt act. At least they don't charge it. If we construe the language——

The Court: How many counts like this are there, Mr. Lucas?

Mr. Rose: Quite a few.

Mr. Lucas: Counts 1 to 8, inclusive—pardon me, counts 1 to 7, inclusive.

The Court: How come you are not making the same point as to count 1, Mr. Rose?

Mr. Rose: In what respect? Count 1, your Honor, sets up—you mean by that letter that they attach?

The Court: I am just asking you that question. How come you are not making the same argument as to count 1 that you are now making as to count 2?

Mr. Rose: Count 1, your Honor, is this omnibus allegation——

The Court: That is incorporated by reference in count 2.

Mr. Rose: I don't think it is incorporated by reference, except I say it might be construed——

The Court: You claim it is? [30]

Mr. Lucas: Yes, undoubtedly.

Mr. Rose: They do say: "we allege and incorporate, as if here set forth at length, the first count of this indictment except the last two paragraphs thereof:"

I don't know, in the light of the construction of the language in an indictment, I think they might very properly construe that as sufficient assertion of making a part of this count 2 all of the matters of count 1.

The Court: Except the last two paragraphs?

Mr. Rose: Yes.

The Court: Which pertain to the particular person named there, Mrs. Parsons.

Mr. Rose: Yes.

The Court: My question is how come you didn't make the same argument as to count 1 that you are now making as to count 2? I am asking you not to create any difficulty, but I am asking for information.

Mr. Rose: I don't think I have fully argued

count 1. I thought I would generalize and set forth my grounds of my motion to your Honor, and your Honor would, necessarily, conclude that I am advancing the same argument. In other words, if I haven't I want to make it clear to your Honor that my position is——

The Court: You are saying to me now that the letter describing count 2 is not in and of itself deceitful, let me use that word, you are saying it is just a letter of transmittal of some stock?

Mr. Rose: It is not an act that might be relegated as an overt act in carrying out a conspiracy, because there is no contention that there ever was a discussion or a conspiracy, in fact, as alleged in count 1 or at all, whereby it was part of the so-called or alleged scheme to transmit a letter of this character; that such an arrangement and agreement would per se not be of a [31] criminal act or character.

The Court: I better hear you, Mr. Lucas.

Mr. Rose: What I want to point out to your Honor is this: They have attached the letter to the tail end of count 1, and I am glad your Honor called my attention to that. As I said, this is a rather amazing potpourri, this first count, but I find that they wind up, in fact—frankly, your Honor, I didn't observe that, because this letter here that I have to reattach, it became loose here—frankly, that is why I took a little time in the beginning here making that motion, I thought this letter here was count 2, but I find now, your Honor, that the conspiracy that is alleged in count

1 purports to be and is alleged to be a violation of section 17(a) subdivision (1) of the Securities Act. Now, frankly, your Honor, this is the first time I had any idea that that is the theory of this conspiracy.

The Court: That the first seven counts are—what do you call that act?

Mr. Lucas: Securities Act of 1933.

The Court: Is that the short title of it?

Mr. Lucas: Yes.

The Court: The first seven counts are Securities Act counts, we will call them that.

Mr. Lucas: Yes. And that is the violation of the basic provisions of that act in using a scheme to defraud.

The Court: So much for your first seven counts. Then how many counts and what numbers are they that are mail fraud counts?

Mr. Lucas: 12, 13, 14, 15, 16. 8, 9, 10 and 11 are registration counts, as we refer to them. 17 is the conspiracy.

The Court: Do you have companion mail fraud counts to each of the seven Securities Act counts?

Mr. Lucas: I don't say in each one. For instance, the [32] companion count to count 1 in the mail fraud is count 15; companion count to count 2 is 9 and 14, there are two companion counts there; count 3 carries the companion count of count 10; count 4 has no companion count; count 5 has the companion count of count 11; count 6 has the companion count of count 16.

The Court: All right.

Mr. Rose: I desire to add, with the court's permission, to the grounds submitted in support of the joint several motions, singularly, in behalf of the three defendants, two corporate and Mr. Danziger, the grounds for the motion for the quashing and dismissing of count 1, that the evidence is wholly lacking and wanting in establishing that the use of any interstate transportation or mails or anything transmitted therein was in legal contemplation or pursuant to section 17 (a), subdivision (1) of the Securities Act of 1933 or 15 U.S.C. 77q, subdivision (a) (1) a violation thereof, in that it affirmatively appears that, one, that the securities involved in any of the transactions herein referred to or alluded to in the testimony. The record evidence shows that it was, one, the personally owned stock of the Wake Development Company, and that the communications utilized both—that is, the interstate communications utilized or resorted to were per se not fraudulent or in any manner or respect a devise, scheme or artifice to defraud, either under the Securities Act of 1933 or the amendments there at that time existing or of the code specified in said indictment. I desire to add that as grounds.

The Court: It may be added. Pardon me, now, Mr. Rose. Mr. Lucas, do I understand the government to take the view that the Securities Act, with which, incidentally, I have never dealt before in a criminal prosecution, is roughly, I may say, the same as the mail fraud statute in this respect: that any one, any group of defendants—it would

be a group, because we have several here—any group of defendants who enter into a scheme to defraud [33] by the sale of securities, and thereafter employ the mails in carrying it out, that that is a violation of the Securities Act?

Mr. Lucas: Yes, your Honor stated it very clearly.

The Court: It is very close with the mail fraud?

Mr. Lucas: It is construed by the courts exactly parallel, you might say, in every particular with the mail fraud statute.

The Court: Let me state it another way, then. If the subject matter of a prosecution is securities, the evidence which would support a mail fraud prosecution will support a prosecution under the Securities Act?

Mr. Lucas: Right; other elements of the offense being present, it is exactly the same.

The Court: You don't need to drag that in. The mail fraud statute covers other things than securities.

Mr. Lucas: Yes.

The Court: You don't need to drag that in. The mail fraud statute covers other things than securities.

Mr. Lucas: Yes.

The Court: All right, then. My question, again, is if the subject matter of a prosecution happens to be securities, then the evidence which would support a prosecution under the mail fraud statute will support a prosecution under the Securities Act?

Mr. Lucas: If I understand your question, yes. The answer is yes.

The Court: Under the mail fraud statute if two or more enter into a scheme to defraud, and use the mails to execute it, that is a mail fraud prosecution?

Mr. Lucas: Yes.

The Court: Your claim is if two or more enter into a scheme to defraud by the sales of securities, and use the mails to execute it, that is a violation of the Securities Act?

Mr. Lucas: Yes, that is as I understand the law, and that [34] is what I am going to maintain before you in my turn for argument.

Mr. Rose: He maintains it, all right, but I am quite sure that he hasn't furnished your Honor with any authority, nor can he, that that is the fact.

This act here, the Securities Act, and the U. S. Statute, expressly under subdivision (c) withdraws the exemptions provided in Section 3, claiming that that doesn't apply. This section pertains and relates to the use of mails or interstate transportation in the proceedings and process of defrauding a person in the sale of securities, irrespective of whether it is subject to registration or anything else, and it is not analogous to or intended to be a separation of the use of the mails or interstate transportation facilities in distinguishing between the sale of a security or bond from any other matter at all.

This is using the mails in a scheme to defraud through the use of those particular forms of communication, and it is a distinct and specific offense,

and the statute relegates itself to the use of the mails as it is there defined: "to employ any device, scheme or artifice to defraud."

It says, "* * * in the sale of any securities by the use of any means or instruments of transportation or communication in interstate commerce or by the use of the mails, directly or indirectly."

In other words, it is the use of these facilities in perpetrating a fraud. They have made a lot of allegations here, but as I point out, I don't know how they claim that the mails were so used—unless your Honor should hold and conclude that the so-called rights phase of this transaction, where a person was given the right that they were at liberty to exercise, was a fraudulent device—and I don't think there is anything here in this record, from the standpoint of rules of evidence, or from a consideration of the thing itself, that could be called a fraudulent device, that [35] is, something to defraud any one.

The Court: I am not sure that you stated your motion as to count 2.

Mr. Rose: I was in the process of stating it, your Honor, when your Honor called my attention to one phase of count 1, for which I am very grateful, which I inadvertently overlooked.

The Court: We better go back to count 2, then. You better begin again with your statement of the motion. That is the Lawyer count.

Mr. Rose: In behalf of the defendant J. M. Danziger as an individual defendant, I move that count 2 of the indictment be annulled, quashed and dis-

missed upon the following grounds: One, that the evidence is wanting and lacking in supporting each of the allegations which are purported to be adopted by reference as a part of count 2, and that the act as set forth, namely, the transmittal of the particular letter of which a photostat is attached and made a part of the allegations of count 2, is not such an act as is contemplated by Section 17(a), Subdivision (1) of the Securities Act of 1933, and its analogous statute, namely, 15 U.S.C.A. 77q (a), subdivision (1). And in addition to all of the grounds previously submitted with relation to that portion as to the charge in count 1 which have been presented in support of dismissal of count 1, I herewith reallege and I particularly point out that there is no evidence whatsoever that defendant J. M. Danziger in any manner participated in, was privy to, acquiesced, or was a party to the placing of the particular letter therein set out in the mails, or at all; that said letter on its face shows that it is not the act of the defendant Danziger, that it is not the fact. It affirmatively appears, and testimony shows, one, that this letter was prepared and written by the secretary of Wake Development Company, and if by any one that she even placed it in the mail. And it, manifestly, cannot, under any sound hypothesis, be based as an overt act of this reputed [36] conspiracy that counsel has represented to your Honor as taking place in 1935. And upon all of the grounds I submit that motion as to count 2 on behalf of the defendant J. M. Danziger.

Now, your Honor, in behalf of the defendant

Trinidad International Petroleum, Ltd., a Nevada corporation, a defendant herein, I submit the motion to quash, annul, and set aside count 2 upon all of the grounds heretofore submitted in respect to count 1, which are incorporated by reference and made a part of this motion, and upon the special additional ground that there isn't a scintilla of evidence that defendant Trinidad International Petroleum Company in any measure or respect had anything whatsoever to do with that letter, or that that letter pertains or relates to any purported act on the part of said corporate defendant.

I submit to your Honor a motion to dismiss, quash, and annul count 2 upon each and all of the grounds heretofore submitted in respect to count 1 and in support of the quashing of count 2 previously addressed to this court in the motion in behalf of the defendant J. M. Danziger and Trinidad International Petroleum as it may pertain or relate to the defendant Wake Development Company.

The Court: Now, proceed to count 3, Mr. Rose.

Mr. Rose: At this time, your Honor, on behalf of the defendant J. M. Danziger I move to quash, dismiss, and annul count 3 upon the following grounds: In so far as the reiteration by reference of all of the parts of count 1, which is set forth in the second paragraph of count 3, which embraces a reallegation of all of the matters and things set forth in count 1 save and except the last two paragraphs, I adopt by reference each and all of the grounds heretofore submitted in support of the motion as to that part of the indictment, and I fur-

ther interpose and add to that in support of the motion to dismiss count 3 as to the defendant Danziger that the act, to-wit, namely, that on January 19, 1939, and it does say in the sale to Harry F. Pitts, that the placing of the letters set [37] forth in facsimile through a photostat, that the matters and things contained in said communication are not such an act as is proscribed by Section 17(a), Subdivision (1) of the Securities Act or of 15 U.S.C. Section 77q, Subdivisions (a) and (1). And here, again, is a communication which on its face shows it was a letter of the Wake Development Company bearing the signature of "A. Faulkner" as secretary, and that said act and said communication in contemplation of the law does not constitute the commission of the offense purported to be charged by the Section 17(a) or the United States statute referred to, and that there is no evidence to connect the defendant Danziger personally with the transmittal of this particular letter, nor can it be deemed to be a part of the reputed conspiracy represented to this court as having been formulated in 1935.

The Court: You had just moved under count 3, Mr. Rose, to quash in behalf of defendant Danziger.

Mr. Rose: If your Honor will permit me, apropos of the subject that was discussed in general between your Honor and opposing counsel just before the recess, it brings a certain thing to my mind that I would like to state to the court, if you will permit it.

Frankly, your Honor, I have been puzzled here

at various states of this trial to comprehend even with some degree of certainty the theory of the government's case. We know as a legal concept in principle the matter of *expressio unius est exclusio alterius*.

In this case the form of conspiracy charged is specifically identified as a purported violation of Section 17(a), Subdivision (1) of the Securities Act of 1933 and of the U. S. Code Title 15, Section 77q, Subdivision (a). Now, from counsel's observations made to your Honor, I am under the impression that he thinks he is in a state court trying one of these omnibus so-called conspiracy cases in which the acts, omissions, commissions and deceit, and so forth, [38] constitutes an offense; now, for example, taking the admissions of Mr. Warren here, in all of the transactions concerning which he testified he committed the offense commonly known as grand theft by trick and device, or he committed the offense of obtaining money under false pretenses, all offenses concerning which, and each of them, he would be subject on his own confession and admission to indictment, trial and conviction in the particular communities in which he committed these offenses.

On the other hand, the question that occurs to me, your Honor, is this: that is no concern of the United States. As I pointed out, we are not dealing with the so-called offense concerning which your Honor made inquiry, namely, the use of the mails to defraud. This offense here, your Honor, as outlined in the Securities Act and in identical

nomenclature in the U. S. Code, is a substantive specific offense; it has its identity and it has its parts.

Now, what I have in mind is what it says here. I hope your Honor doesn't think I just want to take up time, I am not going to go back to this, but I would like to make my position clear so when opposing counsel replies he will have an opportunity to address the court on the point of law that I am trying to background and relegate these particular motions.

A substantive offense: "It shall be unlawful for any person in the sale of any securities by the use of any means or instruments of transportation or communication in interstate commerce or by the use of the mails, directly or indirectly—" and subdivision (1) is the particular section of this offense: "to employ any device, scheme, or artifice to defraud." Now, that is the offense charged so far as we have covered these particular counts.

Now, your Honor, we know it is elementary that a conspiracy to commit a particular offense is of itself an offense. [39] Conspiracy to expectorate on the sidewalk would be an offense, that is the conspiracy. Now, my point is this: This section, necessarily, contemplates a scheme and device to use interstate commerce facilities communications and transportation, that is, the use of mails, in a scheme to defraud in the sale of securities.

Your Honor, the tail end of this section, subdivision (c) specifically outlines that the exemptions provided in section 3 shall not apply to the pro-

visions of this section, meaning that it doesn't make any difference whether the security is subject to registration under the Securities Act or at all. In other words, this is a separate and distinct offense.

The Court: You might call it a federal blue sky act?

Mr. Rose: That is correct, your Honor, that is exactly what it is. It is a substantive offense, the conspiracy of which would constitute one offense, and the particular transaction in each and every instance would constitute an offense, and the overt acts of each as part of that conspiracy would constitute a specific offense.

Now, without taking too much time, here is a very brief part of a case that I am going to submit to your Honor for consideration. I am submitting the case of United States v. Monjar, reported in 47 Fed. Sup. at page 421. This deals with 77q, the specific form of offense that we are talking about. It says:

“The first count, however, does not allege that the mailing of the letter referred to there-in was ‘for the purpose of executing said scheme and artifice to defraud and for the purpose of obtaining money and property by means of false and fraudulent pretenses, representations and promises and attempting so to do * * *.’ It is therefore not sufficient, and I sustain a demurrer as to it. In fact, the government concedes that the defect in Count 1

exists. However, the government [40] may still utilize count 1 as a 'reference' count, so that the remaining counts of the indictment can incorporate the scheme set out in count 1."

Citing two Circuit Court cases.

Now, my position, your Honor, is this: We must be cautious in considering from a legal standpoint and not from an appeal to passion and prejudice the state of the evidence in so far as it may be deemed to apply to the alleged offenses committed here and set forth in the indictment, and in doing so we must separate and eliminate from consideration in this case the particular grand thefts and larcenies committed by Carter in these several states, because obviously this substantive offense pertains to the use of those facilities in interstate commerce, a scheme to defraud by means of those facilities.

Now, then, what have we in connection with this scheme here? If your Honor should hold that, for example, the so-called letter that went out under the Trinidad letterhead, after Mr. Danziger, had departed for Europe, whether the arrangement to send out that letter comes within the purview of subdivision 1 of this section, namely, to employ a device, scheme or artifice to defraud; now, that is what is alleged to have been the scheme here, that they used that. Now, what is the record evidence in connection with that, your Honor? That device, if it may be called such, was a result of what? An agreement between the Great Eastern Gas Company, a Delaware corporation, with its

President DeHart and others, in which this trust company in Delaware was a party, and it is not a scheme between Carter and all of the so-called aliases and these defendants. And if they held and claimed that that was a scheme in violation of this substantive act, they do not allege it and they haven't brought in the proper parties. In other words, they have attempted to charge us with a scheme in the utilization of mail concocted in 1935 to use the mails and telephones, and haven't [41] offered one word of testimony in support of that contention. They don't even allege it. And they don't say that the mails were used, as I pointed out in this case to your Honor. They are trying, as I say, a conspiracy allegedly in which they are trying to tie in everybody, which would constitute a conspiracy to commit theft or larceny by trick and device.

Now, as far as the use of the mail, that part of the so-called scheme which comes within the purview of the act, your Honor would necessarily have to find that the employment of that right privilege pursuant to a contract in writing between the Great Eastern Gas Company and the Trinidad Company was a conspiracy between those two corporate entities. Danziger would be deemed under the rules of evidence, if that act be deemed as a violation of this section, to be acting in behalf of the corporate defendant Trinidad Company. Now, if the conspiracy, so-called, alleged to have been entered into in violating the substantive offense, the letter of the Wake Development Company ask-

ing them if they had exercised that right, would be deemed an act to defraud, that is a different story.

Now, that is the thing that I have in mind. I have been puzzled to know the theory of the government's case here. He made a speech here about the fact that what is his name? flashed a newspaper, and he pointed to Trinidad and stuck it in his pocket. All of that would be fine if we were trying a case here against Carter for grand theft by trick and device.

The Court: What I would like for you to do would be to complete your motions as to the first seven counts, which counsel says are laid under the Securities Act, and then we will ask him to state his theory as to them on the record; but I would like to get these motions down.

Mr. Rose: Very well. Do your minutes reflect that I completed a motion as to count 3 on the defendant Danziger?

The Court: As to the defendant Danziger, yes.

Mr. Rose: I now, your Honor, address to the court a motion as to count 3 of the indictment in behalf of the defendant Trinidad International Petroleum, Ltd. on the ground that the transmittal of said letter, a facsimile of which is set forth and made a part of said count 3, is on its face not an act of the Trinidad Corporation, and that the transmittal of said letter does not constitute the commission of any offense as contemplated by Section 17 (a), Subdivision (1) of the Securities Act, or Title 15 U.S.C. Section 77q (a) as charged in said count.

And may I adopt by reference each and all of the matters advanced in connection with a motion to quash said count 3 by incorporating the matters and things heretofore submitted in behalf of the other defendants on the ground that said purported act on the part, reputedly, of the Wake Development Company does not constitute a public offense or a violation of said substantive act 17 (a), Subdivision (1) and 77q of Title 15 U.S.C., Subdivision (1), and I move that that motion be acted upon on said count as pertains to said defendant.

The Court: Now, count 4.

Mr. Rose: Your Honor, as to count 4 of this indictment I submit to your Honor a motion in behalf of the defendant J. M. Danziger, individually, that said count be quashed, annulled and dismissed upon the following grounds: As to the attempt to reallege and incorporate the first count, I submit to your Honor without repetition the reasons and the matters presented in support of that particular count and that portion of the count in the preceding counts as if said grounds were restated at this time. And in addition thereto, upon the ground that the reputed offense set forth in said count is relegated to, other than the reference reallegations, to a reputed act of the transmittal on or about the fifth day of January, 1939 in the sale to F. A. Russell of a letter bearing said date. In this regard I submit that said letter on its [43] face does not purport to be an act committed by or at the solicitation of the defendant Danziger; that said act does not contemplate or on its face

purport to be a violation of Section 17 (a), Subdivision (1) of the Securities Act as charged, nor the identical act set forth in Title 15 U.S.C. 77q, Subdivision (a), upon the ground that said count fails to charge that the transmittal of this letter was, and the purported mailing thereof was for the purpose of executing a scheme of the character contemplated by said acts and for the purpose of executing said scheme and artifice to defraud, and for the purpose of defrauding the property by means of false and fraudulent pretenses and representations.

In this connection I call your Honor's attention this is the first of a series of letters referring to a mining stock transaction, and the testimony in this case on the part of Warren states that he never discussed with Mr. Danziger or any of the other defendants the subject of Canadian mining stock.

Now, that is the state of the record. If counsel can point anything out to the contrary I would like to know where it is. On each and all of the several grounds I submit the motion.

I now move in respect to said count 4 that the same be quashed, dismissed and annulled as to the defendant Trinidad International Petroleum on the ground that there are no allegations that the said transmittal of said letter was at their instigation or on the ground that they participated in it in any respect, and incorporate all of the other grounds heretofore addressed in support of said motion.

I submit the same motion upon all of the grounds stated as to the defendant Wake Development Company.

The Court: Now, count 5.

Mr. Rose: As to count 5, I submit to your Honor a motion on behalf of the defendant J. M. Danziger as an individual that said count be dismissed, quashed and annulled upon the grounds, [44] one, that—in that connection, I incorporate by reference each and all of the matters addressed to that portion of count 5 that I have heretofore submitted, which portion purports to adopt by reference count 1, and in addition thereto, and especially, I submit that the purported allegations therein which seek to do charge that on September 13, 1939 there was placed in the mails to Adeline B. Skinner in the sale of securities a check for \$300 drawn on the Farmingdale New Jersey Bank in violation purportedly of Section 17 (a), Subdivision (1) of the Securities Act of 1933 and 15 U.S.C. Section 77q (a), Subdivision (1), and that there isn't a word of evidence that said check was deposited in the mail by the defendant J. M. Danziger.

In that connection I submit to your Honor that the depositing in a bank of a check could not be deemed and contemplated as the commission of any offense. It wouldn't matter to the government whether this check was sent to Farmingdale, New Jersey, by pony express or by a man on a bicycle, and so far as we know by any competent evidence there isn't anything here to show who put this in the mail, except we may infer from the testimony

of this bank clerk who says that his records reflect this check was placed in that Bank of America here for collection. There isn't any testimony to show how this check got back to Farmingdale, New Jersey. Nobody has testified that it was sent back there by mail or by means of any interstate transportation over which the government has any control.

Frankly, I am very much puzzled about how the encashment of a check can constitute an offense in violation of the laws of the United States. I merely make that by way of observation in addition to my other grounds and reasons for the motion.

I submit that motion to your Honor in behalf of the defendant J. M. Danziger.

I now submit to your Honor a motion on behalf of defendant Trinidad International Petroleum on all of the grounds heretofore [45] set forth and presented both by reference and with particularly to said count in behalf of the Trinidad International Petroleum Company, and on the further ground there is nothing whatsoever to indicate that they were in any manner privy or participated in the encashment of this check in any manner or means.

I incorporate by reference and submit all of the matters and the grounds submitted in support of the motion to dismiss this particular count and such matters as have been presented collateral thereto by reference to former grounds specified and applied to the former counts and count 1 in behalf of the defendant Wake Development Com-

pany, and on the further ground that the encashment of said check cannot and does not constitute a violation of any of the sections or statutes recited in said count as an alleged violation.

As to count 6, your Honor, I now submit to your Honor a motion in behalf of the defendant J. M. Danziger to quash, annul and dismiss count No. 6 of this indictment upon each and all of the grounds heretofore submitted in respect to that part of count 1 adopted by reference as heretofore submitted in connection with count 1 and amplifications of grounds for dismissal of said count 1 with the same force as if said grounds were now reiterated to the court. And in addition thereto that the said count fails to charge a public offense in that it purports to allege that on January 28, 1939 in the sale to E. Barrie Smith of securities the defendants jointly placed in the mail a check for \$195 on a Hartford, Connecticut bank, that is, the Hartford National Bank and Trust Company, and facsimile or photostatic copy of said check is made a part of the said allegations. And I submit that there is no evidence in the case that the defendant Danziger authorized or participated and placed said check in the mails.

And, for that matter, I submit, again, that there is no evidence that any of these defendants placed said check in the mail. If it was placed in the mails at all, if we may assume that [46] by surmise, conjecture and speculation, it was an act on the part of the Bank of America here in Los Angeles; and for all we know they may have used roller

skates, as far as the record evidence goes, in transmitting that check to the Hartford National Bank and Trust Company.

I now submit to your Honor a motion in respect to said count in behalf of defendant Trinidad International Petroleum Company, and with the court's permission I incorporate by reference all of the matters and the grounds heretofore submitted in respect to count 1 and the similar allegation in regard to the transmittal of check No. 5—that is count No. 5, with the same force and effect as if each of these matters were reiterated to the court in support of said motion.

Just for the purpose of the record, your Honor, I am assuming from your Honor's judicial acts in regard to the several motions, that your Honor is accepting and permitting me to refer by reference?

The Court: That is correct.

Mr. Rose: That is understood?

The Court: It is understood.

Mr. Rose: Because we have one judge on the Circuit Court, in one case that indicated that all the grounds must be reiterated, and I don't want to bore the court by going through that again.

The motion now has been made in behalf of Trinidad; is that correct, your Honor?

The Court: That's right.

Mr. Rose: I now present the same motion, namely, to quash, annul and dismiss as to the defendant Wake Development Company, and incorporate by reference the reasons and grounds as

stated in support of said motion as heretofore submitted in behalf of the other defendants.

Now, as to count 7—— [47]

Mr. Lucas: At this point, if your Honor please, the government will stipulate that count 7 be dismissed as to all defendants.

The Court: Why?

Mr. Lucas: On the ground we have not offered sufficient proof to support that. And that is the only one.

The Court: I am going to let Mr. Rose complete his record, nevertheless. What you might say about count 7 might have some application to the whole situation, counts 1 to 7.

Mr. Rose: I now submit to your Honor in behalf of the defendant J. M. Danziger, individually, a motion to dismiss count 7, to quash and annul it, upon each and all of the grounds pertaining to that charge of the indictment adopted by reference and made a part of these allegations; upon the additional ground that there is no evidence to show that the defendant Danziger participated in, authorized or had any part in the transaction therein charged. On the further ground that the deposit of this check with the Bank of America as reflected by the evidence does not constitute a violation of the offense sought to be charged and specifically averred in this indictment. We have here again, the situation that it is the contention of the defendants jointly, severally, and separately that if this check was deposited in the mail as alleged in said count it was the act of the Bank of America and

not at the solicitation or request of any of the defendants, and so far as the evidence goes it may have been delivered by hand or foot or bicycle, I don't know what. In any event, not through any of the mediums, and it is not a device such as is set forth in the substantive offenses sought to be set up in this indictment.

I submit the same motion, namely, to quash, annul and dismiss as to the defendant Trinidad International Petroleum, and incorporate by reference the grounds and each of them heretofore addressed in respect to the other counts so far as they may pertain [48] to any of the allegations, the scheme, so-called device as alleged in said indictment antecedent to and as a part of count 7.

I now make a motion—who have we got now, Trinidad?

The Court: You are up to Wake now.

Mr. Rose: I haven't made it in behalf of Wake, have I?

The Court: You covered Trinidad.

Mr. Rose: I submit a motion to quash, annul and dismiss count 7 by reason of and adopt by reference all of the grounds and reasons addressed to the court in the prior motions in so far as they pertain and relate to the acts of omission and commission purported to be set forth in the preceding counts and each of them and made a part of count No. 7.

The Court: Mr. Lucas, you give us the government's legal theory as to counts 1 to 7, which are the Securities Act counts.

Mr. Lucas: May it please the court and counsel, with respect to count 1 it is alleged that the mailing, use of the mails in violation of the statute and in execution of the scheme and in procuring the sale to Mrs. Parsons, that the mail was used in the letter as set up, the letter of May 15, 1940, which says, "Enclosed herewith you will find certificates of Trinidad International Petroleum, Ltd. in your name," and sets them out. Attached to that letter is the air mail envelope, return receipt requested stamped on the outside, together with a number. On the letter itself it bears the legend that it was air mail, registered and a return receipt was requested.

The Court: Where did that come from in the case?

Mr. Lucas: That came into the record and is in evidence and was identified, if I remember, by the witness Mainland, who said he procured it from Mrs. Parsons, the person to whom it was addressed, in the course of his investigation, as a representative of the Securities and Exchange Commission.

It is further referred to in some of the testimony of Mr. [49] Danziger in his sworn testimony.

Now, as to that, your Honor, I hope counsel hasn't confused the court by his statement of the government's position. And may I, with the indulgence of the court, just briefly outline the legal aspect of this?

The law says that whosoever shall devise a scheme to defraud and make use of the mails or of the

instrumentalities of Congress in effecting a sale of a security shall be guilty.

Now, all we have to do is to prove the scheme to defraud.

The Court: What statute are you talking about?

Mr. Lucas: I am talking now about the Securities Act itself.

The Court: It isn't phrased that way.

Mr. Lucas: Sir?

The Court: It isn't phrased that way.

Mr. Lucas: I didn't purport to quote it verbatim, your Honor.

The Court: No.

Mr. Lucas: Let me get it in front of me and speak authoritatively, at least, by reading the law.

The Court: That would have been a good statement of the mail fraud statute, the one you just made.

Mr. Lucas: Let's take 77q itself, your Honor.

The Court: I don't say that we don't arrive at the same result. I am still looking for light. The fact is that the draftsmanship of the mail fraud statute and the draftsmanship of the Securities Act are different in form.

Mr. Lucas: They are substantially the same, only as the word "sale" is used.

When I answered your Honor this morning, I think I was——

The Court: Let's read now the Securities Act. It isn't long. [50]

Mr. Lucas: "It shall be unlawful for any person in the sale of any securities by the use of any

means or instruments of transportation or communication in interstate commerce or by the use of the mails"—

The Court: All right. All we need for the purpose of this case is it shall be unlawful for any person in the sale of any securities by the use of the mails—to do what?

Mr. Lucas: "to employ any device, scheme or artifice to defraud."

Now, I am not going to redwell on the artifice, scheme and device to defraud. I think it has been so thoroughly covered here.

The Court: That is your opening allegation, that is what you have been talking about for two or three days?

Mr. Lucas: Yes. Now, having proven the scheme to defraud, what else must the government prove? We must prove the use of the mail.

We have in evidence the very mailed document, the piece of mail; we have it here; it is in evidence; it cannot be questioned.

Now, then, to connect it with the sale, I take it that it is part of the government's duty to show that the mail was used in furtherance of the scheme in affecting the sale.

The Court: You see, don't you, the difference in the approach by the draftsman of the mail fraud statute and the draftsman of this act? The draftsman of the mail fraud statute started out talking about a scheme, it would be unlawful for anybody to devise a scheme to defraud anybody, and then

to use the mails to do it. That is the approach of the mail fraud statute.

This statute approaches it from the opposite direction. It says: It shall be unlawful for anybody in the sale of any securities by the use of the mails to employ a fraudulent scheme in doing it. [51]

Mr. Lucas: All right. Now we have proved, then, the scheme.

The Court: I am interested to know whether or not the draftsman of this indictment, whether he followed conventional form of indictments under the Securities Act in drawing this indictment? You may not know about that.

Mr. Lucas: I wouldn't know.

The Court: I should think that the draftsman of this indictment would have made the same approach to the Securities counts as the statute does; that instead of starting out with the allegation about the scheme, device, artifice in great detail, that he would have said that: Prior to the dates herein mentioned within the statute these defendants used the mail to sell securities and employed a fraudulent scheme in so doing, to-wit:—then set out what the fraudulent scheme was.

Mr. Lucas: I see what your Honor is getting at. It is the mechanical draftsmanship of the indictment.

However——

The Court: What he did was he followed the standard and conventional form and approach of mail fraud indictments, because that is the way the mail fraud statute does approach the subject,

and he set out all of the scheme, and then he said he employed the mails to accomplish it.

That may be part of Mr. Rose's difficulty, and it may create some difficulties for me. I am not saying that at this moment.

Mr. Lucas: I think if he has alleged a public offense under this statute, whether he got the cart before the horse or the horse in the proper position, if he got the horse and the cart connected, under the law we have alleged the public offense. It makes little difference, as I see it, your Honor, whether he had started out as your Honor indicated the draftsmanship of the act is, [52] or using the manner which he did, if——

The Court: Mr. Rose has been arguing for some time today that that letter back there, the one with the named purchasers, was not fraudulent itself in any respect; it was just a transmittal of a certificate of stock which he had previously been induced to purchase. So, looking at this statute, which says, "It shall be unlawful for any person in the sale of any securities by the use of the mails——"——see?

Mr. Lucas: That's right.

The Court: "——to employ any device, scheme or artifice to defraud."

He said this was not any device to defraud, this letter of merely sending her a share of stock.

He didn't say it, but his argument logically leads to this: If the letter had been a come-on letter, contained some misrepresentations itself, see what

I mean? that that would have been employing a device to defraud.

Mr. Lucas: I see what your Honor means, but I do not think that the statutes, I mean that the courts, either the trial courts or the circuit, have put that construction on it.

The Court: I suppose not from what you have said. I am going to look at the decisions this evening.

Mr. Lucas: I am quite satisfied that the courts have construed——

The Court: The same as the mail fraud statute?

Mr. Lucas: The same as the mail fraud, if the instrumentalities of commerce are used in effecting or bringing about——

The Court: Why not use the words of the mail fraud statute to execute the fraud?

Mr. Lucas: To effectuate or——

The Court: This statute does not use the word “execute” or to effectuate the fraud. It says: It shall be unlawful in the [53] sale of any securities by the use of the mails to employ any device to defraud.

So, to make this statute fit your facts here you have to say that these people got up a scheme, fraudulent scheme, and then they sold securities by mail and they employed that scheme previously gotten up to defraud these people.

Mr. Lucas: Quite right; and used the instrumentalities or used the mail, in this case, to effect the sale. Therefore, when we come to a construction of the mail fraud, we find that the courts have

said if the mails are used after the scheme is perfected but not in furtherance of the scheme, but after it is complete, that the offense is not committed. Therefore, I take it——

The Court: In other words, you think the emphasis on the Securities Act is on the use of the mails——

Mr. Lucas: On the sale.

The Court: ——distinguished from the mail fraud statute where it emphasizes the use of the mails in executing the fraud?

Mr. Lucas: That's right, that is my approach to it, your Honor.

Now, then, in that light, I say to your Honor that when we bring into evidence this letter addressed to Mrs. Parsons in which it says, "Enclosed herewith you will find certificates of Trinidad International Petroleum in your name as follows: * * * Kindly sign the receipt," and so forth, that it is directly within the prohibited provisions or prohibited part of the law, and they are using the mail there directly to effect the sale.

The Court: Making a delivery?

Mr. Lucas: Making a delivery.

The Court: Mr. Rose challenged you on two things. One was something about the Canada mining stocks. You are the one that was challenged; you ought to remember it better than I do.

Mr. Lucas: Mr. Rose challenged me on so many things. [54]

Mr. Rose: I stated Mr. Carter's testimony was in response to a direct question of yours whether he

ever discussed the subject with Danziger of Canadian mining stock, and he said he is quite sure he never did. That is his testimony.

Mr. Lucas: Without being facetious at all, Mr. Rose, in response to the query of the court, whether the testimony is as Mr. Rose remembers it or whether it is not makes little difference, if the government has proven the scheme and device to defraud and has achieved that by all the testimony that is in the record, I am not going to quarrel about some isolated piece or portion thereof. I do not subscribe to any proposition that we are limited to the concoction of the scheme between De Hart for the Great Eastern and Danziger for himself and Wake and Trinidad in that hotel room in New York.

The Court: What was your other challenge, Mr. Rose? Don't tell me you have forgotten it, because I have.

Mr. Rose: I said he charges in some of these counts that these checks were deposited in the mails by the defendant. There isn't a scintilla——

The Court: Yes. What I want to know is how did they get in the case? I have notes, but——

Mr. Rose: They got in the case, your Honor, in this manner: Mr. Mainland produced these checks, and ostensibly he picked them up in the course of his investigation from the banks upon whom the money is drawn, and counsel then proceeded to do this, introduce through the Bank of America clerk——those are the first group of exhibits, your Honor, starting with No. 2, he brought in the clerk of the Bank of America and asked him whether his rec-

ords reflect, for example, here that a check in the sum of a thousand dollars, which is Exhibit No. 1, was presented to the Bank of Manhattan Company in New York and whether they collected the proceeds of it, and he said his records so reflect. I pointed out [55] that there is no proof that any of these defendants ever deposited that check in the mail; assuming that they did do it, I said it wouldn't make any difference, it doesn't violate this Act. Where is his proof that any of these defendants deposited these checks in the mail? I said for all we know they may have thrown them with a rocket or something.

Mr. Rose: At this time, your Honor, on behalf of the defendant Danziger, individually, I move to quash and dismiss count eight upon the following grounds, severally, that said count purports to charge that on January 26, 1939, the defendants place in the mails in this district here to be delivered to Michael Burns a letter of transmittal, including a stock and note certificate, in order to deliver the same after a sale, referring to said stock; and the purported offense designated in said count purports to be an infraction of the law, it is specifically set forth here as Section 5(a) Subdivision (2) of the Securities Act of 1933, and the same nomenclature will be found in the Statute 15 U.S.C. Section 77e Subdivision (a) in Part 20 thereof.

Now, in that connection, Section 5(a) Subdivision (2) relates and pertains to a prohibition re-

lating to interstate commerce in the mails, and reads as follows:

“Unless a registration statement is in effect as to a security, it shall be unlawful for any person, directly or indirectly——”

And Subdivision (2) is:

“to carry or to cause to be carried through the mails or interstate commerce any such security for the purpose of sale or for delivery after sale * * *”

In conjunction with said section, your Honor, there must be, necessarily, considered Section 3(a) of the Act, and its subdivisions, which is an exempted proviso in respect to such acts [56] as are set forth in this Securities Act, unless otherwise specified.

Now, for example, in 17 (a) Section (3), as your Honor will remember, it expressly says that the provisos of Section 3 do not apply to the matters that are proscribed by said Act. In other words, it doesn't make any difference. You discussed here a moment ago, your Honor, with opposing counsel, what are the elements of the offense under that Section 17, Subdivision (1)? It doesn't make any difference if that plan and those acts are committed whether you are registered or not registered, and it expressly throws out Section 3 to which I am going to allude in a moment.

Now, Section 3 of this Act, Subdivision (a) reads as follows:

“Except as hereinafter expressly provided,

the provisions of this Title shall not apply to any of the following classes of securities:"

And then the part that is applicable here is Subdivision (1):

"Any security which, prior to or within sixty days after the enactment of this Title, has been sold or disposed of by the issuer or bona fide offered to the public, but this exemption shall not apply to any new offering of such security by an issuer or underwriter subsequent to said sixty days."

In this connection, the undisputed evidence and proofs are that the securities here involved, and which were assertedly sold to Burns, was the privately owned security of the Wake Development Company, that these stocks had been regularly issued as set forth in Section 3, that it was prior to and within 60 days after the enactment of this Title it had been sold or disposed of, that is what happened here, by the issuer. In other words, the Trinidad Company was the issuer, and had issued long prior—as a matter of fact, you have got an additional point that I am making here, your *ex post facto* element to consider—there is no contention that can [57] be supported by any proof in this record that—this particular stock that is involved in count eight had been regularly issued and transferred prior to the enactment of this section, and expressly comes within the exemption features of this Act. In other words, there can be no violation in this transaction. In other words, Wake having lawfully come into possession of the block

of shares, as shown by the evidence here, could without regard to the Securities Act send a part of that or all of it in the mails to Burns, Jones, or anybody else in the universe, and it doesn't constitute a public offense.

Your Honor has in mind, tied into this count eight, none of these preamble accounts of scheme, device, and all that business. That is a separate and distinct count without realleging or adopting by reference anything. And it says that Jacob Morris Danziger, also known as so and so, Warren Carter, also known as—I am not going to take the time to read that, Trinidad International, and Wake Development Company, and somebody else here, a man named Wright, about whom we know nothing up to this point, anyhow, defendants, did on the 26th of January, 1939, in this district unlawfully, and feloniously cause to be carried through the United States mails certain securities; then they describe the particular two certificates, facsimiles of which, or, more accurately, photostatic copies of which are affixed, and set forth as a part of the allegations of this count; and it is contended, as I pointed out, that the transmittal through the mails to Burns in Peekskill, New York, was a violation of this section.

Now, I state, first, that it is requisite for your Honor to entertain and consider the applicability of the fact of the exemptions specified in Section 3(a) of the Act and Subdivision (1), in particularity, and consider the evidence as to the legal status of the securities involved, namely, that the

securities which are here asserted to have been transmitted are by the records shown to [58] have been the personally owned securities of Wake Development Company. There has been no evidence submitted to this court which contends that that is not a fact. The evidence they put on is the testimony, even our friend Mr. Warren here says that in his first discussion with Mr. Danziger, Mr. Danziger said that the particular stock which ultimately found its way into that escrow with that trust company in Delaware was the personally owned stock of Wake Development Company, had been issued prior to the enactment of the Securities Act, and that it did not come under the provisions of the Securities Act at all, and that it was exempted under the Act. Now, this transaction is no different than if I took a certificate of stock in the Edison Company, which stands of record in my name, and I could mail it to anybody, including the sons of Jehovah, anywhere in the universe, and it couldn't constitute a public offense.

Now, the Edison Company stock would not be any different than the Trinidad Company, regardless of what opposing counsel thinks about the characteristics of that company. Here it is sought to charge that the placing of that in the mail, feloniously, incidentally—I don't know why that was put in there, the Act doesn't say anything about felonious or otherwise; the Act says in Section 5, Subdivision (2), as I pointed out:

“Unless a registration statement is in effect as to a security, it shall be unlawful for any

person, directly or indirectly—(2) to carry or cause to be carried through the mails * * *’

On the additional ground, your Honor, there is no evidence to show that these two securities were in fact placed or caused to be placed in the mails by Mr. Danziger. The exhibit and the charging part of the acts and what they are are augmented in this count by attachment of an envelope addressed to Michael Burns with a postmark on the stationary of the Wake Development Company, [59] bearing the signature of the secretary thereof. That is all the evidence we have.

Therefore, on each and all of the grounds submitted, I move that the motion to quash, dismiss and annul said count, be granted as to the defendant Danziger.

In behalf of the defendant Trinidad International Petroleum Company, I move to quash said count, annul and dismiss same as to the defendant Trinidad International Petroleum Company, upon all the ground heretofore submitted in support of the motion in behalf of the defendant Danziger, which grounds I hereby adopt with your Honor’s permission by reference as if they were restated and reiterated to the court on said motion.

As to the defendant Wake Development Company, I move that the said count eight be quashed, annulled, and dismissed on each of the grounds set forth in behalf of the defendant J. M. Danziger, and adopt the said grounds by reference; and the further ground that the transmittal of the securities referred to in said letter are expressly exempted

under the statutes, Section 3(a), Subdivision (1) of the Act, and that there is no evidence to support that in this transaction there was a violation of the statute or statutes, rather, referred to in said count.

At this time, your Honor, I address to the court a motion in behalf of the defendant J. M. Danziger, individually, to quash, annul and dismiss count nine of the indictment upon the following grounds, severally: That in said count it is sought to charge all of the defendants therein named with having assertedly committed a violation of Section 5(a), Subdivision (2) of the Securities Act, 15 U.S.C., Section 77e (a) (2); that said count purports to assert the commission of a public offense, namely, the violation of the sections outlined by reason of the defendants having assertedly on the 18th day of May, 1939, in this district feloniously caused to be carried in the mails Trinidad International Petroleum securities for [60] the purpose of sale and delivery to Florence Lawyer, no registration statement being in effect as to such securities.

Will your Honor look at this indictment, or will it be sufficient if I just mention it?

The Court: Yes.

Mr. Rose: I want to call particular attention to the fact that on line 20, page 26 of said indictment the draftsman has sought to use this particular and specific language, and I made a mental note of it at the time, he says, "no registration statement being in effect as to such securities." I am quite certain it is apparent to your Honor what I have in mind. We won't waste much time in my

giving some expression to the thought I have in mind. Since an allegation of this kind, as we see by the authorities, must be pleaded with particularity, and it must be construed in the language employed, we have in addition to the observations that I have already made about it, the allegation without any alternative that there was no registration statement in effect as to such securities.

It doesn't say as to said securities, the securities sent to Florence Lawyer in Yonkers, New York, but the antecedent to which reference is had by force of the language selected here must logically be interpreted that they were alleging that there was no registration as to Trinidad International Petroleum stock. They don't say that these particular shares that were transmitted weren't registered.

Then we come squarely into the state of the record, independent of all other matters that I have presented, that Exhibit A in evidence here shows that the Trinidad International Petroleum, Ltd., stock was registered with the Securities and Exchange Commission, and that the prospectus was authorized as to such stock, and there is no dispute in this case whatsoever that the Trinidad International Petroleum Company, one of the defendants who they claim committed this violation, contrary to this allegation, [61] did have a registration in effect as to such securities, namely, as to the antecedent of that. They don't say to this particular certificate, they don't even take the

trouble even to describe the certificate; they merely talk of the number of shares.

It shows you when they drew this omnibus indictment there they literally resorted to the process of throwing the book, particularly at Mr. Danziger, and they didn't seem to think that it was incumbent upon them to charge any particular acts.

You can see the way this case has been presented to your Honor here and the constant repetition by opposing counsel of this scheme and plan, all this business and all the sins of Warren and Carter coming down on our heads.

I state to your Honor in support of my motion in connection with this particular count that, firstly, the allegation is completely lacking in supporting evidence, in fact, they themselves, according to the evidence here have shown that a registration statement was in effect concerning the securities.

Mind you, your Honor, I don't want you to think that I am resorting to a little sharp practice here, or something; I want your Honor to know clearly that I am submitting it on that ground, not contending that the securities sold were in fact the securities mentioned in Exhibit A. I want your Honor to have that clearly in mind. I am not pretending to try to submit to your Honor that I am arguing that the shares transmitted, if such is established by the evidence, to Mrs. Lawyer, as alleged in this count, were in fact the securities authorized by Exhibit A. On the contrary, I want it clearly understood by your Honor that my position as to the factual background here is that the

securities referred to in count nine are the securities that were personally owned by the Wake Development Company as a part of their shares of stock in the Trinidad Company, and that by reason of Section 3(a), Subdivision (1) of the Securities Act was exempt from being subject [62] to the charge that this transmittal allegedly violated Section 5(a), Subdivision (2). I am submitting it in addition to the other grounds upon the ground that it affirmatively appears here that the stock referred to in count nine was, in fact, exempt from that Act; but I urge as additional grounds, I hope I am making myself clear, the fact that the charge is not that these particular shares or that particular certificate—they don't mention it here, they just mention the number, and they speak of the shares. On the further ground that the allegations of count nine—I might correct that, the Exhibit attached to it is this letter of May 18?—are insufficient and contrary to the established facts of record and of evidence, namely, that such securities were in fact registered, upon the ground that the photostats which are incorporated and constitute a part of the allegation of count nine show on their face that they were not the act of the defendant J. M. Danziger, that is the act or part of said act of transmittal; nor is there any evidence that he authorized or, in fact, placed the same or caused the same to be placed in the mail as therein alleged. And upon each and all of the grounds I heretofore indicated for the reasons expressed, I move the court grant the motions in behalf of said defendant.

At this time I submit a motion to quash, dismiss and annul count nine as to the defendant Trinidad International Petroleum for the reasons and upon all the grounds heretofore submitted in support of the motion made in behalf of defendant Danziger as an individual, with the same force and effect as if they were reiterated.

I at this time make a motion to dismiss all of count nine, the quashing of said count and annulling of same in behalf of the defendant Wake Development Company, a corporation, for all of the reasons heretofore submitted in support of the motion on the part of the defendant J. M. Danziger, individually, and for the further [63] reason that the documentary and oral testimony here established without equivocation or qualification that the securities inferentially referred to in said count was the privately owned stock of said corporate defendant issued long prior to the enactment of the Securities Act, and clearly within the exemption provisos as established by Section 3(a), Subdivision (1) of said Securities Act.

At this time I submit to the court a motion on behalf of the defendant J. M. Danziger to quash, dismiss and annul count ten of the indictment herein upon the following grounds, that said count purports to charge that all of the defendants named in the indictment did on the 20th day of February, 1939, feloniously cause to be carried in the U. S. Mails certain shares of stock of the Trinidad International Petroleum, and these preferential notes, for the purpose of sale and delivery to Harry F.

Pitts; said purported acts were reputed to constitute and charge these defendants with such acts being contrary to the provisos of Section 5(a), Subdivision (2) of the Securities Act of 1933, and 15 U.S.C. Section 77e, Subdivision (a), Part (2).

In this case we have the similar situation of an allegation that no registration statement being in effect as to such securities as distinguished from the said securities; and I will, with your Honor's permission, adopt all of the grounds and reasons in support of the said motion as to count ten in behalf of the defendant J. M. Danziger as were addressed to the court to an asserted similar transaction in the preceding count nine, as if those matters were restated, and particularly on the grounds that the evidence here shows that the particular securities, even if we are to assume that they are speaking of certain shares as said securities, that the same, necessarily and by reason of the evidence fails to constitute a public offense in that said securities, if any, that were transmitted as alleged in said count ten were and are expressly exempt by reason of Section 3(a), [64] Subdivision (1) of the Securities Act, and by reason of the fact that the uncontradicted evidence in this record shows that said securities out of which these alleged certificates were a part were issued long prior to the enactment of this Act, and that such enactment, even were it not as contended by us subject to the exemptions of 3 (a), Subdivision (1), would be ex post facto for that reason null and void; and on the further ground that there is no evidence to show

that the defendant J. M. Danziger authorized, participated in, or in fact was privy to the placing of this particular letter, envelope and its enclosures in the mail as charged in said count ten or at all.

In behalf of the defendant Trinidad International Petroleum Corporation, I move the quashing, annulling and dismissal of count number ten as to said corporate defendant by reason of and upon all of the ground submitted in support of the motion in behalf of the defendant, individually, J. M. Danziger, as to said count ten, and adopt each of said grounds and reasons, by reference, as if the same were reiterated at this time in support of a motion in behalf of said defendant.

I make the same motion to quash, annul and dismiss said count ten as to defendant Wake Development Company by reason of and upon the grounds addressed to your Honor in behalf of defendant J. M. Danziger's similar motion, as to said count, and adopt similar reasons and grounds stated by reference as if the same were addressed to this court in support of the motion on behalf of this particular corporate defendant.

I now submit to your Honor a motion on behalf of the defendant J. M. Danziger as to count eleven of this indictment, and move the said count be quashed, annulled, and dismissed as to said defendant upon the grounds, one, that the allegations of said count eleven fails to allege the commission of a public offense as to said defendant. [65]

In this regard I submit to your Honor that said count alleges that on October 4, 1939, the defend-

ants unlawfully and feloniously caused to be carried through the U. S. mails certain securities of the Trinidad International Petroleum and the profit-sharing notes for the purpose of sale and delivery after sale to Adeline B. Skinner, no registration statement being in effect as to such security. Said count includes as part of its allegations as an alleged violation of Section 5(a), Subdivision (2) of the Securities Act, 16 U.S.C., Section 77e (a) (2), being a similar transaction in character as the preceding part; upon the grounds that it is not shown or alleged in said count that said securities were subject to the provisos of Section 5(a), Subdivision (2), and so forth, and that the evidence here reflects as to the generalization of such securities of Trinidad International Petroleum that, in fact, they had registered, and in other respects that the purported shares of stock transmitted in this particular transaction as set forth in this count were in fact shares of stock that were privately owned by the Wake Development Corporation, they had by them been acquired prior to the enactment of the Securities Act of 1933, and irrespective of the fact that the Securities Act as to the said securities was ex post facto, that Section 3 (a) of the Act, Subdivision (1), in fact, exempted said securities.

And as to the defendant J. M. Danziger, that said allegations do not constitute a public offense as to him or at all.

I submit the motion on each of the grounds and for the reasons herein stated.

At this time, your Honor, in behalf of the Trinidad International Petroleum Company, I submit the motion to quash, annul and dismiss and set aside said count eleven of this indictment for the reasons and upon the grounds addressed to this court in the motion as to this count in behalf of the defendant J. M. Danziger, and I adopt said grounds and reasons by reference with the [66] same force and effect as if they were reiterated as to the defendant Trinidad International Petroleum Company.

I now move that your Honor enter an order of dismissal as to count number eleven, as against the Wake Development Company, for the reasons and upon the grounds heretofore addressed to the court in support of the motion as to this particular count in behalf of the defendant J. M. Danziger, individually, and by reason and particularly of the fact that the undisputed testimony in regard to Wake Development Company was that it was at all times charged in this indictment handling and dealing with, insofar as that corporate defendant is concerned, with its privately owned securities in the Trinidad International Petroleum Company, and for that reason is expressly exempt under Section 3(a), Subdivision (1) of the Securities Act.

The Court: Now, Mr. Lucas, state your position as to the registration counts.

Mr. Lucas: Very quickly, and I think easily stated, your Honor, Defendants' Exhibit A in evidence, has reference to a registration statement of the Treasury stock of the Trinidad International

Petroleum. It sets up they wanted to sell one hundred thousand shares of Treasury stock at \$5.00 a share to be paid in cash in currency of the United States or Canada.

Page 9 of that sets up what is going to be done with the money, how it is going to be handled, the money that will accrue after the payment of the brokerage commissions, I believe, for \$400,000.00 to be used by the company. That is Treasury stock.

What we charge is that the Wake Development Company was selling to the public in Pennsylvania, Ohio, New Jersey, Massachusetts, part of its stock for which there was no registration on file, that they were issuing it, and that under the law they had to have a registration statement on file before they could sell and issue it. It is very simple. The issue that is referred to [67] there is 100,000 shares of the Treasury stock of the Trinidad at a fixed price. What we charge them with doing is selling an altogether different stock at a different price, under different conditions, and not having any registration on file covering it or concerning it.

Now, Trinidad is involved because Trinidad through its president signed Trinidad stock certificates, through its secretary signed Trinidad stock certificates, aided, abetted and assisted the Wake Development Company and its common president, Mr. Danziger, in putting that deal over. So that part is very simple.

The indictment alleges that the securities were sold in violation of the registration provisions of the Securities Act. Trinidad Corporation did in

1934 file a registration statement with the Securities and Exchange Commission. Under that statement Trinidad proposed to offer 100,000 shares of the common Treasury stock for \$5.00. That statement became effective and the offering as described in that statement and the prospectus in connection therewith could have properly and legally been made. That offering by that issuer at that price and of that stock was not made.

Mr. Rose: Are you reading from the indictment?

Mr. Lucas: No, I am not.

The last sentence of the Securities Act of 1933 specifically provides that:

“A registration statement shall be deemed effective only as to the securities so specified therein as proposed to be offered.”

The violations alleged in the indictment involve sales by Wake Development Company of Common Capital stock and preferential profit-sharing notes which are not mentioned in that registration statement, issued by Trinidad International Petroleum in units of one share and one pound note, at an offering price of \$3.00 in cash plus certain shares of other defunct corporations. [68]

These shares and notes were owned by Wake, and the stock was not Treasury stock of Trinidad.

Furthermore, the proceeds of the sale were intended to be retained and were retained by Wake Development Company, no registration statement was ever filed covering shares and notes sold and delivered by Wake as alleged in the indictment,

and it is very quickly and easily said. Trinidad comes into the deal not that they issued them directly, but through their president and secretary participated in it, aided and assisted by the signing of the certificates.

There is one thing I do want to call the court's attention to in connection with this count, with one of these counts, count eleven. There is not, as the court can see, a photostatic copy of the shares of stock and profit-sharing notes. We were unable to provide them. We have in the evidence the carbon copy of the letter that is attached to the indictment procured from Mr. Danziger in which he says he is sending them. Mr. Carter says he sold them, and Mrs. Skinner was here and says she received them. So, I take it we have met the full measure of proof. I did, however, want to call that differentiating fact to the court's attention.

The Court: What section of the statute do you rely on?

Mr. Lucas: We are relying on Section 77e as it is found in your book there, your Honor, Subsection (2).

The Court: What page?

Mr. Lucas: Page 436.

Mr. Rose: That is the same as 5 (a). You charge them in both forms in your indictment.

Mr. Lucas: It says:

“Unless a registration statement is in effect as to a security, it shall be unlawful for any person, directly or indirectly, to carry or cause to be carried through the mails [69] or interstate com-

merce by any means or instruments of transportation, any such security for the purpose of sale or for delivery after sale."

The Court: What about the exemptions, Mr. Lucas, that Mr. Rose mentioned?

Mr. Lucas: It is an elementary principle of law, both in Federal and State, that in pleading an offense or charging criminal offense the indictment does not have to plead the exemptions.

The Court: I know, but what is the fact about the exemptions that he relies on?

Mr. Lucas: The exemption, I gather from following counsel's argument, he says it is exempted because this registration statement here refers to the same stock.

Mr. Rose: No.

Mr. Lucas: I don't follow him.

Mr. Rose: Then I don't think you understand the point at all. Shall I repeat it to him?

The Court: Repeat it to me.

Mr. Rose: My point in referring to Exhibit A, Mr. Lucas, was picking out a particular nomenclature in the charging part of the indictment, instead of referring to said shares it says, "such securities." That was merely an incidental point. If you paid any attention, I particularly indicated to his Honor I didn't want his Honor to get the impression I was quibbling here or trying to raise the contention that his shares actually involved in these counts were the shares that were specified under this registration. My contention is that the uncontradicted evidence, the documents that you

introduced in evidence, expressly points out that this is not Treasury stock. It is the privately owned stock of Wake Development. Carter testified here as your witness in support of your case that at the beginning of this meeting there was a discussion had that these particular securities that were sought to be [70] sold was the privately owned stock of Wake Development Company, and the shares that they had acquired in a lawful and legal manner as their personally owned stock, and for that reason said shares were exempt under—if you will read the Securities Act—Section 3 (a), Subdivision (1).

The Court: What page is that on my book?

Mr. Rose: Your Honor, I haven't it. I think it is 77q—it is either (c) or (d), your Honor.

Mr. Mainland: (c).

The Court: What page, Mr. Mainland?

Mr. Lucas: That is "securities exempted," page 432.

It is very simple, your Honor, as long as Wake Development Company had these shares of stock, this 165,000 shares and kept them and didn't attempt to make a public offering of them, we do not contend that they had to be registered, any registration statement on file, as long as they had those shares of stock; Wake Development Company had received them three or four or five years beforehand.

The Court: Start again, please.

Mr. Lucas: As long as Wake Development

Company kept their shares, of course they didn't have to file a registration statement; but when it began selling those shares as provided here they couldn't sell them legally without violating the law until they put a registration statement on file. That they never did.

The Court: I have never worked with this statute particularly, although I do know that the S.E.C. like every other agency, wants to broaden its authority as much as it can. That is one of the problems of modern government.

Mr. Lucas: Quite true.

The Court: And probably includes Federal courts, although they have been held pretty closely within bounds. Within recent months, for instance, I have had the claim presented to me in my own district that a sale of real estate contracts is a security [71] within the meaning of the Securities Act, see? That would be pretty poisonous to you Southern California people, when you get around to capitalizing on your climate, as soon as the war is over. If you found that every time a fellow wanted to make a fast deal up the street here on a piece of property, that it had to be registered with the Securities and Exchange Commission, you couldn't sell a piece of property half-a-dozen times a day, under those provisions.

So, I am not just going to pass over this question maybe as quickly as justified, just because of my natural caution about claims of all modern governmental agencies to broaden their jurisdiction.

I haven't worked much with the Securities Act, so that is another reason why I am cautious.

Is it the general claim that every security which is sold—I am not using the word “traded in”—every security which is sold must have been registered by somebody at some time?

Mr. Lucas: If you are going to adopt an analogy or illustration, such as Mr. Rose used here about the sale of some privately owned Southern California Gas stock, no, of course not. Here the Government is interested in this because we don't have to have any fraud, scheme or design, or anything, we just have got to have a public offering.

The Court: Where is that in this statute? Where is the reference to public offering in this statute?

Mr. Lucas: These offerings or public sales are provided in here——

The Court: Where is that in this statute? Where is the distinction between a public offering and a private sale in this statute?

Mr. Lucas: The point is this, that is where we get back to this exemption thing; every sale must be registered as it says here, unless you come within the exemption. And if you come within [72] the exemption, you should be able to put your finger on it and say, “I am exempt under this one.” The defense comes along now and says they are exempt because there was a registration covering that.

Mr. Rose: You are missing the point entirely. You are attaching a lot of importance, Mr. Lucas, to a very technical point that I addressed to the court, and you are missing the point that his

Honor is talking about here, and upon which I relied principally.

The Court: The distinction is made in the early blue sky act as to what is a public offering and what is not, how extensive an offering had to be to be a public offering, and whether the security was a private holding.

Mr. Rose: With your Honor's permission, I failed to point out to your Honor that Section 4 of this Securities Act states, "the provisions of Section 5"—that is a funny set up; they set it up before they come to Section 5—"The provisions of Section 5 shall not apply to any of the following transactions: Transactions by any person other than an issuer, underwriter or dealer;"

My point is that there you have their own Act. Wake Company was in this transaction, they were neither an issuer or an underwriter, and they were not a dealer; they were selling their privately owned stock, that is the state of the record, and they can't get around it or behind it. Although I like to apply the broader view that your Honor has indicated, and as counsel is trying to point out, it would be all right if Wake hung onto that stock, but, good heaven's, if they ever mail a part of it and put it in the mail to anybody, why, it is too bad, they have committed a public offense.

Mr. Lucas: Of course to say what the Securities and Exchange Commission would or would not do under a given set of circumstances is hard to prophesy about; but it certainly could not overlook the fact that Wake Development Company

was holding 165,000 shares of stock that had been issued to it two or three years prior [73] to the going into effect of the law, we will say, and it was holding it in that issued state. But it became an issuer within the meaning of this law the minute it began selling it, and the law says the sale of every security shall be premised or prefaced by a registration statement unless it comes within the exemptions.

The Court: How are private sales taken care of?

Mr. Lucas: Private sales are taken care of in one sense here. But I want to answer counsel when he says they weren't an issuer.

“The term ‘issuer’ means every person who issues or proposes to issue any security; except that with respect to certificates of deposit, voting-trust certificates, or collateral-trust certificates, with respect to certificates of interest or shares in an unincorporated investment trust not having a board of directors (or persons performing similar functions) or of the fixed, restricted management, or unit type, the term ‘issuer’ means the person or persons performing the acts and assuming the duties of depositor or manager pursuant to the provisions of the trust or other agreement or instrument under which such securities are issued”

and it goes on with a lot of exceptions.

That is found in your volume on page 129.

The Court: I don't know how the reporter did, but you talked too fast for me.

I want to talk about what I am interested in, not what you and Mr. Rose are interested in.

Mr. Lucas: Pardon me, your Honor. I didn't mean to ignore you.

The Court: Where is the exemption that said the sale of [74] private stock is exempted.

Mr. Lucas: You won't find it in this section in the words that your Honor apparently is seeking. You won't find it set up that way.

The Court: Well, suppose I took Mr. Rose's case, suppose I wanted to sell some Southern California Gas?

Mr. Lucas: You go ahead and sell it.

The Court: Why?

Mr. Lucas: You are permitted to. You are not an issuer, you are not making an offering, you are not making a public proposition, and the stock has been registered when it was sold to you; or if it was registered long prior to the Act, you go ahead with the private sale.

The Court: Now you are getting around to what I asked you 10 minutes ago. If it is not the Securities and Exchange Commission's position that any security must have been registered by somebody at some time, that is sold?

Mr. Lucas: Let's state it this way:—

Mr. Rose: Ask Mr. Mainland.

Mr. Lucas: If it were issued within 20 or 30 days prior to the going into effect of this Act they didn't have to reissue—

The Court I am not discussing that question of the fact that these people became the owners

of this before the Act came into effect. That is a fact, isn't it?

Mr. Lucas: True.

The Court: That isn't what I am talking about at all. Forget that.

Mr. Lucas: Then I misunderstood you.

The Court: This Act went into effect in '33, didn't it?

Mr. Lucas: Yes.

The Court: Suppose they got this stock in '34 under the circumstances they did, this Wake stock?

Mr. Lucas: Then it would be the position—if the Wake stock was issued, if the Trinidad stock was issued to Wake in '34 in the manner in which it was issued, it would have to receive the approval of the Securities and Exchange Commission. I am talking now of the 165,000 shares that Wake got.

The Court: That is just what I want to get at. I have heard this discussed in the profession; it is not entirely a new question to me.

Mr. Lucas: Mr. Mainland has pointed out to me the provisions of Section 4 under the caption "Exempted Transactions", and thinks it will answer your Honor's question, which provides as follows:

"The provisions of Section 5 shall not apply to any of the following transactions: Transactions by any person other than an issuer, underwriter or dealer;"

Now then, to check that through we have got to go back into who is an issuer and who is an underwriter and so forth, and we get into a very technical

field, and the court is bound by the statutory definition of those persons.

Now, transactions by an issuer not involving a public offering, we have some room for a difference of opinion there, an honest difference of opinion as to whether such a deal whereby Wake got this 165,000 shares wouldn't be in under that. It may be under a proper construction of this section that would be an exemption.

The Court: Let's keep what happens to be the point that I am interested in right now. It is not an unfamiliar transaction, I am not taking any sides now on what was done here, but it is not an unusual transaction—in fact it is very common, I know of nothing more common in the profession than for a man to acquire some stock at the organization of the company when he turns in something that everybody feels is of some value; that is just as ordinary as [76] riding on a street car to your work nowadays. There is hardly a country lawyer in the United States that hasn't organized a corporation and had some people turn in some stuff and take some stock for it. All right. After they get it, does every Tom, Dick and Harry in the United States, every little fellow of one hundred thirty million people in every one of the 48 States, regardless of the size of the transaction, after he has got that stock, does he have to go to the Securities and Exchange Commission and register it before he can sell it to his neighbors?

Mr. Mainland says no.

Mr. Lucas: I don't think so. But when it is

offered in the manner in which it is offered as set forth by the testimony here——

The Court: I just want to get the emphasis placed here. If that is where you are going to put the emphasis, on how he disposes of it, his own private stock after he has it, then I want you to show me in the statute where that distinction is made. I want you to talk to me now as if I were a pretty resentful small town lawyer, one of the many millions in this country who think they are being overgoverned by a whole lot, and who has just been told that he had done something wrong when he had made a deal for some very plain simple client in his community in organizing a corporation with a minimum capital stock authorized by the laws of his State, who turned in a little piece of property or a patent, or something like that, and when he told his client he could go out and sell a little piece of it to his neighbor for \$500.00, had just been told that he couldn't do that without getting it registered with the great white father in Washington, and making up all those forms. Now, what I want to know is does the emphasis come on the amount of stock that he wants to resell? Nobody can criticize him for acquiring stock in that way, that is his own business, the laws of his State permit him to do that; I think it could hardly be [77] claimed that the S.E.C. has supervisory authority over that initial transaction, one man converting a little piece of property he has into corporate form for reasons of his own, that is nobody's business if he wants to do it that way. He

takes some stock back, then, in exchange, and then when he has it a neighbor says, "Bill, I will give you \$500.00 for a third of your interest in that thing, maybe something will come of it some time," and he says, "All right," and they make the deal. I will be surprised if the S.E.C. claims under this Act that that initial transaction has to be subject to its supervision in any way whereby he incorporated his little project and took the stock for himself.

Now, then, passing, that, is this sale that he made to his friend, is that unlawful unless he got it registered? Or is it when he set out to everybody in town and ran an ad in the paper and said, "I have got this stock and I offer it to whoever will come and take it away"? Is that where the emphasis is?

Mr. Lucas: Well, bearing in mind that we have all had some experience, as you say, with the various governmental agencies and the very human desire, I take it, on the part of every agency, and sometimes the courts, to show a jealous regard for their jurisdiction and to want to uphold their jurisdiction, we know that the Securities and Exchange Commission probably wants to assert and hold the jurisdiction to the extent that it possibly can, and within the limits of this Act, and I would say that in my opinion—and I am frank to say to your Honor that I am touching the Securities and Exchange Act for the very first time—I in my very limited reading and study of it here would say that your Honor's proposition or illustration is within the reach of

the Securities and Exchange Commission under this Act.

Now, that brings us to whether or not they may want or feel, as a matter of policy, that they want to assert it, their rights under it, or assert their jurisdiction in a particular case. [78] But if that isn't a private transaction as lined up here, if it isn't a public offering, if it isn't this or if it isn't that, it has to be something else, and I would say that when that man assumed by your Honor by his illustration began to make a public offering of it, and as we have shown here an indiscriminate offering through representatives throughout the various States, that it is clearly—

The Court: Where does the statute make that distinction, which is the distinction that the State Securities statutes make between public and private offerings?

Mr. Lucas: It is only by reading these exemptions. That is the very difficult part of this whole procedure.

The Court: In other words, you think the approach is this: that every sale of stock—we will use the much abused words “*prima facie*”—that every sale of stock which hasn't been listed by somebody is *prima facie* within the Act?

Mr. Lucas: Every sale must be registered. I think it starts out with that premise, essentially, that every sale must be registered, every issue must be registered, rather. The statute gets into transactions and issues, if the court please, that is the way the statute runs. We talk about registering

of an issue and registering of a transaction, exempted transactions and exempted issues; but, generally speaking, I think we can start with that premise, that every issue must be registered, then, except if it is exempt, and the defendant or the particular person charged must prove himself to be within the exemption. Then if we come to the transactions, we discuss the transactions and I think generally speaking we can say all transactions must be registered except, and then we have the exemptions.

I think that is the general trend and force of this entire enactment. [79]

ASSIGNMENT OF ERROR NO. 8

The Court erred in overruling the objection on behalf of the defendants to the admission of the following testimony on the part of the witness W. E. Warren (Carter):

Q. By Mr. Lucas: I show you what has been marked heretofore as Government's Exhibit 41, for identification, a document on the letterhead of the Great Eastern Natural Gas Company, and ask you if you have ever seen a facsimile of that?

A. Yes, I have seen a facsimile of this form letter.

Q. Is that one of the documents about which you have been testifying?

A. This is one of the documents used in the series of build-up letters that were used on the Great Eastern Natural Gas stockholders.

Mr. Rose: I move that be stricken as a conclusion of the witness.

The Court: The answer and the question are both stricken. Ask the question again.

Q. By Mr. Lucas: Was that part of the literature that was mailed out—first was that part of the literature that was prepared by you and Mr. Danziger and mailed out to the Great Eastern stockholders?

Mr. Rose: I object to that as calling for a conclusion and opinion of the witness.

The Court: You may answer.

A. At the time of my meeting with Mr. Danziger, my last meeting referred to, we discussed the various letters that we would create in this sales campaign and use in our stock selling plan, and one of the agreements that we entered into was that Mr. De Hart would send one letter from the Great Eastern Natural Gas Company of Wilmington, Delaware, which would, in sum and substance, confirm the various letters that I have described [80] heretofore coming from the Trinidad International Petroleum Company, and would sort of confirm the situation.

At the time of my talk with him we talked about what this letter—how this letter should be written, and we came to certain agreements about it. I can't tell you now whether this letter was entered into between he and I at that particular meeting, but at one of our meetings we did agree on this letter.

Mr. Rose: I move that be stricken, your Honor, as a conclusion of the witness.

The Court: Motion denied.

Q. By Mr. Lucas: And was it afterwards sent out?

A. It was.

Mr. Rose: Just a second. I object to that as leading and suggestive, no proper foundation laid.

The Court: He may answer. Answer again.

The Witness: This letter was sent out to all of the stockholders of the Great Eastern Natural Gas Company at various times.

ASSIGNMENT OF ERROR NO. 9

The Court erred in overruling the objection on behalf of the defendants to the receipt as a Government's Exhibit in evidence the exhibit identified as follows:

Mr. Lucas: I now offer this exhibit in evidence, it having been heretofore marked 41, for identification.

Mr. Rose: Objection is had to this document on the grounds, severally, that no foundation is laid to show that this particular form of communication was, in fact, ever exhibited to any of the defendants on trial; there is no foundation laid as to when and where it was prepared, nor by whom. And in support of these objections I indicate to the Court that this form of document appears to have the mimeographed date of October 28, 1935, concerning [81] which the testimony in this record reflects that it is at a period when Mr. Danziger was in England, and he was there long prior to the date of

this letter, and remained there for almost two years thereafter, and that the same is incompetent and not binding on the defendants. This is an act of the Great Eastern Natural Gas Company.

The Court: I think a few dates would be handy now. He had his first talk with Mr. Danziger when, Mr. Lucas?

Mr. Lucas: July.

Mr. Rose: That is not so. It was the early part of 1935 as this witness testified.

Q. By Mr. Lucas: When was your testimony as to the date you met Mr. Danziger for the first time in New York?

A. I couldn't be specific about that date, but it was the early part, my first visit with Mr. Danziger at the time I spoke about the South American oil fields was in the early part of 1935.

Q. What do you mean by the early part?

A. Well, the early part might have been April.

The Court: Does he know when?

The Witness: I can't be specific on that particular date.

The Court: Does he know when Mr. Danziger went to Europe?

Q. By Mr. Lucas: Do you recall approximately when Mr. Danziger went to Europe?

A. I think Mr. Danziger went to Europe either in July or August.

Q. Of '35?

A. That is to the best of my recollection.

Mr. Lucas: We are offering it on the testimony of the witness, who said that it was a part of the

scheme that was talked over by Mr. Danziger and this witness before he left for Europe, and was to be sent out and was sent out, and this exhibit comes into the record and is here for identification through the testimony of [82] the witness Skinner, I believe.

Mr. Rose: Your Honor, counsel is frequently speaking of schemes, schemes, and schemes. Your Honor has heard the testimony of the witness, and we are familiar with it. My objection goes to the fact that as I have indicated, without repeating myself—the objection has not been passed on—this is not an act of the defendants.

The Court: It is admitted.

Mr. Rose: May an exception be noted?

The Court: Exception is allowed.

The Clerk: 41, for identification, in evidence.

ASSIGNMENT OF ERROR NO. 10

The Court erred in overruling the objection on behalf of the defendants to the admission of the following testimony on the part of the witness W. E. Warren (Carter).

Q. All right. Did you avail yourself of the services of this man Franklin or Kramer?

A. Yes, I did. Kramer and I had an understanding between us that we would split——

Mr. Rose: Just a minute. I object——

Q. By Mr. Lucas: Never mind about your understanding with Kramer. If it is some private deal between yourself and Kramer, we are not interested.

Did you avail yourself of his services?

A. Yes, I did.

Q. And did he make any sales?

A. Not immediately.

Q. When was his first sale?

Mr. Rose: I object to that as irrelevant and immaterial, and not constituting any issuable fact.

Mr. Lucas: It is a preliminary question, your Honor. [83]

The Court: He may answer.

A. I can't tell you which salesman made the first sale, but there were a number of sales made.

Q. I am talking about the first sale by Franklin or Kramer, do you remember that?

A. Yes, I do.

Q. To whom was it made?

A. The first sale made by Franklin was Elizabeth Pierce.

Q. Where did she live?

A. South Amboy, New Jersey.

Q. Do you recall the amount of that sale?

Mr. Rose: Object to it as irrelevant and immaterial.

The Court: Is that one of the names?

Mr. Lucas: No; that is a preliminary matter, your Honor.

Mr. Rose: Your Honor, we have so many preliminaries here. I want to stay within the scope here of the matters that are purportedly in issue here. We can't sit here and be held to account for all the trespasses and sins of every person in the United States. Whatever transaction Kramer

or Franklin had in 1935 with Pierce is certainly not the subject of any matter that your Honor is going to be called upon to review here.

The Court: What are you leading up to?

Mr. Lucas: This, as already indicated, is the first sale after the devising of this scheme. We affirm it was called to the attention of Mr. Danziger. It is the first transaction, and while it is not charged in the counts, we deem it as very definite proof of the scheme that we allege was concocted, and about which we have already testimony, and urge it for that reason, your Honor. I don't want to lay too much stress on it, and I will pass as rapidly as I can to the count witnesses, but inasmuch as it is one of the first sales I would like to go into it.

The Court: Was it made, by the way, before Mr. Danziger [84] went abroad?

Mr. Lucas: It was probably initiated before he went abroad. It was called to his attention before he left for Europe.

The Court: Proceed.

The Witness: The first sale made was to Elizabeth Pierce in South Amboy, New Jersey, for \$600.00.

Q. By Mr. Lucas: Now, tell us what was said between you and——

Mr. Rose: Just a moment. What was the question?

(The question was read.)

Mr. Rose: Your Honor, I object to this on the

ground there is no proper foundation laid, it is too remote, and it doesn't pertain or relate to anything of which we are cognizant.

The Court: He may answer.

Mr. Rose: May an exception be noted, your Honor?

The Court: Exception.

ASSIGNMENT OF ERROR NO. 11

The Court erred in overruling the objection on behalf of the defendants to the admission of the following testimony on the part of the witness W. E. Warren (Carter).

Q. All right. Then did Kramer go back to see this woman that you know of?

Mr. Rose: Objected to as leading and suggestive, hearsay, no proper foundation laid, and immaterial and irrelevant to any of the issues in this proceeding.

Mr. Lucas: The question can be answered yes or no.

The Court: He may answer.

A. Yes, he did.

Q. By Mr. Lucas: All right. Did he make a sale?

Mr. Rose: I object to that as immaterial.

The Court: He may answer. [85]

A. Yes, he did make a sale in the amount of—

Mr. Rose: Just a moment. I object to it as a conclusion of the witness, no foundation laid that he was even present.

The Court: He may answer.

A. He did make a sale of 2,000 shares of Trinidad International Petroleum stock and notes.

ASSIGNMENT OF ERROR NO. 12

The Court erred in overruling the objection on behalf of the defendants to the admission of the following testimony on the part of the witness W. E. Warren (Carter).

Q. By Mr. Lucas: Did you hear from Mr. Danziger in response to your cable?

A. I got a cable back from Mr. Danziger, I had several back from them, one of them stated to use my own judgment and to go to any length I thought was necessary in protecting the matters.

The Court: Do you have the cable?

The Witness: No, I don't have the cable. I am just remembering it.

I then wrote Mr. Danziger in detail about this matter.

Q. By Mr. Lucas: Tell us, in substance, what your recollection is about what you communicated to him.

Mr. Rose: I object to it on the ground it is not the best evidence.

The Court: Does he have a copy of the letter?

Q. By Mr. Lucas: Do you have a copy of the letter?

A. No, I wrote it in longhand. I didn't keep copies.

Q. By Mr. Lucas: Go ahead.

A. I wrote him that some time after he left, Mr. Kramer had visited Mrs. Elizabeth Pierce and, to the best of my knowledge, had obtained approximately \$35,000.00 worth of American Can preferred and common stock, and that the way I had found that out was that he [86] had an engagement with me to call on Mrs. Pierce, which he had broken. And then when I called him and tried to get him to keep the appointment with me, he evaded the issue and said he would meet me at Mrs. Pierce's house in South Amboy, and to park my car outside, and that he would go in there with me and call on Mrs. Pierce. He didn't show up, and I came back to New York and I wrote him and told him. I then called Mrs. Pierce on the telephone, and without her knowing who it was, she quickly said, "Oh, is this you, Mr. Kramer?" And she said, "I have been worried about matters. You know, someone else has been trying to get me on the telephone, and I didn't know what you wanted me to tell them." And then I said, "Did you tell them about the securities that you gave me?" And she said, "Oh, you mean about the three hundred shares of American Can?" I said, "Yes, that's right." And she said, "No, I didn't tell them a thing." And I then further told Mr. Danziger that that was the way I had found out that Mr. Kramer had been there and obtained this amount of securities; that after I had ascertained this, I came back to New York and called the Shearer office on Wall Street and asked for Kramer, and was told that he was not around.

ASSIGNMENT OF ERROR NO. 13

The Court erred in overruling the objections and in denying the motion of defendants to strike the following testimony of the witness W. E. Warren (Carter).

Q. By Mr. Lucas: I didn't understand from your testimony, Mr. Carter, whether——

The Court: He met him in the lobby of the hotel.

Q. By Mr. Lucas: No. On this Edwards transaction, whether this money, these three or four or five thousand dollar checks you are talking about as having sold transactions with Mrs. Parsons, whether that money was sent to Los Angeles or received by you? [87]

A. The first sales that were made to Mrs. Parsons were made by me personally, the first three sales that were made were made by me personally. I sold the Trinidad International Petroleum stock by telling her that I had a connection with the Trinidad International Petroleum people, and that I represented their fiscal agent the Wake Development Company. I told her that my name was Edwards, and that as a result of my connections I was in a position to allow her to buy this security and to give her a certain number of shares of stock in that company. I showed her all of the literature which I had in my possession, which I had received previously on the Great Eastern deal, to substantiate the fact that I did have some connection with the company. And at that time I wrote in detail

to the Wake Development Company office, Alda Faulkner, and told them what I was doing.

Mr. Rose: Just a moment. I now move the Court that the answer of this witness be stricken on the following grounds, severally: One, that there is no foundation laid to show that this witness was ever authorized to make the declarations and statements he now asserts to have been made to a Mrs. Parsons at occasions when Mr. Danziger was in London and the corporation's representatives were out here in California; that the same is hearsay, that any of the antecedent understandings or advices or directions asserted and testified to by this witness antecedent to these conversations, necessarily do not authorize the statements and declarations this witness asserts to have made outside of the presence and without the knowledge of the defendants, and for that reason they are hearsay and incompetent.

The Court: Motion denied.

Mr. Rose: May an exception be noted?

The Court: Exception is allowed.

Q. By Mr. Lucas: Now, tell us to the best of your recollection all you said to Mrs. Parsons and anything you showed her. [88]

A. I showed Mrs. Parsons a paper which I had received from London from Mr. Danziger, and I believe the name of the paper was The London Financial Times or News, or something like that, I don't remember the exact name, Mr. Danziger sent me quite a few papers from London, telling me that I would know how to use them in the sale

of Trinidad stock. And I showed her a number of stocks in the oil list of this paper which had the name "Trinidad" connected with them; one of them was "Trinidad Apex", the other one was "Trinidad Leaseholds", and the other one was—several other Trinidad stocks, and I told her that the company that I was selling her was headed by a former group of people of the Pan American Petroleum & Transport Company, and the Mexican Petroleum Company; that the stock had in former years a very high rating; that all of these men that were formerly connected with the Mexican Petroleum Company and the Pan American Petroleum & Transport Company were now directing their efforts toward the exploitation of oil in Trinidad, British West Indies, through this Trinidad International Petroleum Company; that the President of the company was now in England attending to the financing, large financial operations for the company; that I had personally been in touch with him numerous times; that I knew him personally, and that I was doing certain work for the company; and that these shares which I was allowing her to buy was an inside arrangement, and the price she was getting would be considerably lower than what the stock would be sold for on the London securities market.

Q. All right. In this Parsons transaction, were you taking any stock in from her?

A. Yes, I took in 3,000 shares of Lamaque Contact gold stock.

Q. Do you recall any others?

A. I took in another stock which she owned, which had no market value, called Golden Quebec Mines Limited. [89]

Q. What credit arrangement, if any, was allowed her on that?

A. I allowed her a credit, as near as I can remember now, of \$500.00 for her Golden Quebec stock providing she paid \$500.00 in cash on a thousand dollars worth of stock, at the rate of \$7.00 a unit.

Q. After Mr. Danziger returned from Europe, did you make another sale to Mrs. Parsons?

A. No, I didn't make a sale.

Q. Did someone under your direction contact her?

Mr. Rose: I object to that as leading and suggestive, calling for an opinion and conclusion of the witness, not the best evidence.

The Court: You may answer.

A. I arranged to have a sale made.

Q. What did you do now?

Mr. Rose: I object to that as calling for hearsay.

The Court: You may answer.

A. When Mr. Danziger came back from England, or previous to the time that Mr. Danziger had come back from England, he had written me about his desire to put over a nice sale upon his return to New York, and he further asked me if there wasn't something that I could do further in the Parsons matter; that he would be very willing to cooperate and help in any way that he could. So when he did come to New York, I brought the

subject up that I had made an arrangement to have a salesman call on Mrs. Parsons and make a sale. I told him that I had made so many visits to Mrs. Parsons during the course of several sales to her, that I had exhausted my own imagination to create any more sales talk, and that I figured that it was a good idea if I interjected a new personality into the picture.

I told him I had found a man by the name of Joe Robbins, who I thought would be just the type of man that would appeal to [90] Mrs. Parsons. I told him that we had talked it over and decided that Mr. Robbins would go up there and state that he was a direct representative of Mr. Danziger's from England, and that he represented a financial agent of Mr. Danziger's by the name of A. R. Winslow, and that Winslow had an option or controlled a selling group of a certain number of shares of stock, and that she could purchase a block of that stock, which would be considerably below what the stock was selling for in the English markets. As a matter of fact, we had some receipts made, printed, under the name of "A. R. Winslow".

Then Mr. Robbins went up and made the sale and came back, there wasn't any definite amount set on, the idea was to make the sale for \$10,000.00, but when Mr. Robbins came back he had a check for \$7,000.00 made payable to A. R. Winslow, who was supposed to be the fiscal agent.

ASSIGNMENT OF ERROR NO. 14

The Court erred in overruling the objection on behalf of the defendants to the admission of the following testimony on the part of the witness W. E. Warren (Carter).

Q. By Mr. Lucas: I show you, Mr. Carter, after having first shown to counsel, a check dated February 25, 1937, drawn on the Miners National Bank, Pottsville, Pennsylvania, Pay to the order of W. E. Edwards \$1000.00, signed Elizabeth Parsons, and ask if that is one of the checks which you referred to a while ago.

Mr. Rose: Now, just a minute. I respectfully submit that it is wholly immaterial, because the check on its face shows that it is made to one W. E. Edwards, who collected the proceeds of said check, and it is a transaction, manifestly, that occurred while Mr. Danziger was in England, and is wholly irrelevant and immaterial and not binding on the defendant.

Mr. Lucas: We offer it in corroboration of the witness' [91] testimony that he did have these transactions with Mrs. Parsons, and the check is further proof——

Mr. Rose: Then you have a charge against this witness, but it isn't contended that these proceeds came into the hands of any defendant now on trial. It is not a transaction referred to in the indictment, and we do not seek to be obligated or bound by the hearsay and out of the presence transactions of this witness.

The Court: They are admitted.

Mr. Rose: May an exception be allowed?

The Court: Exception is allowed.

ASSIGNMENT OF ERROR NO. 15

The Court erred in overruling the objection on behalf of the defendants to the admission of the following testimony on the part of the witness W. E. Warren (Carter).

Q. By Mr. Lucas: Mr. Carter, do you remember a woman by the name of Florence Lawyer?

A. Yes, I do.

Q. Did you ever call upon her?

A. Yes, I did.

Q. Do you remember her address or where it was she lived?

A. I think she lived on Odell Avenue in Yonkers.

Q. Do you remember approximately the time that you talked with her?

A. No, I don't remember the specific time. If I saw anything that pertained to the——

Q. Did you have a business transaction with her?

A. I participated in a transaction with her with the Wake Development Company.

Q. Just tell us when you saw her, to the best of your recollection, and what you said to her and what business transaction you had. [92]

A. Well, she was a stockholder in the Golden Quebec Mines Limited, and I called on her at her home and told her——

Mr. Rose: Just a minute. I am going to object to that on the ground it is hearsay.

The Court: When is the alleged date of this transaction?

Mr. Lucas: Part of the allegations of the indictment, your Honor.

The Court: Go ahead.

The Witness: I called at her——

Mr. Rose: Your Honor has overruled the objection?

The Court: Correct.

Mr. Rose: May an exception be noted?

The Court: Exception.

The Witness: I called at her home in Yonkers and told her that I represented a Canadian concern, to the best of my recollection, and that I understood that as a stockholder of the Golden Quebec Mines Company she had exchanged the shares of the Golden Quebec into the Trinidad International Petroleum Company, who had made an offer to the Golden Quebec stockholders to exchange such shares. She told me, "Why, no, I haven't done anything like that." She said, "This is the first I ever knew about it."

I said, "Well, that's surprising. I thought the Trinidad International Petroleum Company had made all the Golden Quebec stockholders aware of the fact that they would trade in the shares for Trinidad International Petroleum."

I proceeded to tell her a story about the Golden Quebec Mines Company going into receivership, and that the stockholders of the Golden Quebec Mines Company would probably or had received a certain right to exchange their shares, because a

group of men that were interested in the Trinidad International Petroleum Company were interested in purchasing the properties that they owned in Canada. She said, well, she hadn't heard anything about it. I [93] told her that the value of the stock was \$5.00, its par value, and the notes could be sold around \$4.80, which was equivalent to the par value of the pound sterling at that time; and that as a representative of the Sterling Securities Company in Toronto, I would like to buy the notes if she had them, but as long as she did not have them, well, the only thing I could suggest to her was to write to the Wake Development Company in Los Angeles and find out why they had never exchanged the notes—or the Golden Quebec Mines stock.

Mr. Rose: Just a second. What was the name of the representative of Sterling and what?

The Witness: Sterling Securities Company.

Q. By Mr. Lucas: Proceed, Mr. Carter.

A. She told me that she certainly would do that by all means, and she thanked me very much for calling on her.

I am not positive, but I believe I used the name of Roberts.

Mr. Rose: I move that be stricken, your Honor.

The Witness: (Continuing) My memory is a little vague. I used a good many names, and I haven't looked at any of the correspondence in the matter, and I haven't refreshed my mind at all; I am just trying to remember.

Q. By Mr. Lucas: All right. Go ahead. Did you see her again?

Mr. Rose: Just a moment. I address a motion to the Court.

The Court: Motion denied.

Q. By Mr. Lucas: Proceed, Mr. Carter.

A. That was the only visit, to the best of my recollection, that I had with Mrs. Lawyer. However, I did telephone her three or four times afterwards at New York City.

Q. Can you recall anything you said to her or that she said to you? [94]

A. When I came back——

Mr. Rose: Just a second. I am objecting to that on the ground that no foundation is laid, it is irrelevant and immaterial, and it calls for hearsay.

The Court: He may answer.

Mr. Rose: As to foundation, I wish to point out to the court that the foundation is even lacking in the fact that he even knew who he was talking to on the other end of the 'phone.

The Court: He may answer.

Mr. Rose: May an exception be noted?

The Court: Exception.

The Witness: When I came back to New York, after my talk with Mrs. Lawyer, I wrote to the Wake Development Company in California and advised them that I had just contacted Mrs. Lawyer, and that they might receive an inquiry from her, and to send the regular offer that we had set up as a regular stipulated offer to Golden Quebec Mines stockholders, in the event they did get an inquiry from Mrs. Lawyer.

Then I waited about six or seven days or so, a

length of time I thought an air mail letter would go back and forth from California, and I called Mrs. Lawyer and asked her if she had heard. She said she had—no, she told me on the first call that she hadn't received any reply from them as yet. I think this was about five or six days after I called her, and I said, "Well, that's funny, I wouldn't let it drag along too long. If you don't hear from them, I would be insistent and write again."

Then I received a letter from the Wake Development Company in which they sent me a copy of a letter that Mrs. Lawyer had sent them. To the best of my recollection Mrs. Lawyer went on to state that somebody had called on her from the Sterling Securities Company in Canada and stated that they wanted to buy her notes, and so forth, and she wanted to know why they had never issued the stock, and she [95] wanted them to do something about it.

When I read the letter, I realized——

Mr. Rose: Just a moment. I think you ought to take the witness in hand; he is about to tell us what was going on in his mind there.

The Witness: (Continuing) I immediately wrote back to Mr. Danziger and stated that under no circumstances should he make an offer to exchange her stock for her under the conditions of her letter, and I suggested that Mr. Danziger write her and tell her that he had similar inquiries from other people about people offering them higher prices for the stock, and that he had no part of it, and therefore he could not make the exchange on

the basis which she offered, and did not desire to do so.

I don't remember all of the letter, but I suggested certain things in the letter, partly which later I found Mr. Danziger had sent, because he sent me a copy of the letter which he wrote her, and then I called the woman again and she told me that she received a letter from them, and they frankly told her they weren't going to do it, and what was it all about. And I said, "I can't understand why they would do that." I said, "Probably"—I said, "Have you got a copy of the letter you wrote them?"

And she said, "Yes, I have kept a copy." She said, "I copy everything down."

I said, "Would you mind reading it to me over the telephone?" And she did.

And I said, "That is the reason. You started to talk about outside brokers purchasing the stock, and so forth, and that is one of the things that they don't want. You better write back and tell them that you accept it as a speculation, not with the stipulation as to some future performance or profit that would be performed in the future, or some expectation you had for selling the stock," and so forth. And she said, "All right." [96]

Well, I again received a letter from Los Angeles, which the woman was a little milder—the woman stated practically the same thing, again, in a little different way, and I again wrote back air mail to Mr. Danziger and said that under no circumstances should he accept her exchange under the conditions she wanted to make it, because it would appear to

be binding on Mr. Danziger, and I was looking out for his interest as well as my own, not having anything in evidence of that sort. To the best of my knowledge, this interchange of letters took place three or four times, and each time I received a copy from Mr. Danziger, and each time I told him he shouldn't accept the sale. Finally the woman did write to Mr. Danziger, she told me over the 'phone, I proceeded to call her several times during the course of this thing, she did write a letter, finally, stating she would accept the exchange strictly on the speculative merits of the deal without any conditions to bind them, and so forth. And at the time I received that letter from Mr. Danziger, I said, "As long as you have this in evidence, you can accept the sale." [97]

ASSIGNMENT OF ERROR NO. 16

The Court erred in overruling the objection on behalf of the defendants to the admission of the following testimony on the part of the witness W. E. Warren (Carter):

Q. By Mr. Lucas: Did you meet a man by the name of Harry F. Pitts?

A. Yes, I did.

Q. Do you remember his address?

A. Well, it is up in New York, either Kingston or Newburgh. My recollection is just a little vague about the town.

Q. Either Kingston or Newburgh?

A. Yes, either Kingston or Newburgh, one of those towns up there.

Q. Do you remember approximately when you met Mr. Pitts?

A. The date is very vague, but I remember the man very well because he was in the optical business, eye doctor.

Q. Do you remember meeting him and talking to him?

A. Yes, I do.

Q. Can you tell us what was said between you?

Mr. Rose: I object to it on the ground that no proper foundation has been laid, and it calls for hearsay.

The Witness: Well, I called——

Mr. Rose: Just a moment.

Mr. Lucas: Let's have a ruling on it, first.

The Court: He may answer.

Mr. Rose: May an exception be noted?

The Court: Exception.

The Witness: I called on him in the evening, around 5:00 o'clock I called at his office, and I was told that he was out by his girl, but that he was going to be back in his office that evening, and that if I returned around 7:00 o'clock that he would be there. [98]

He came back and I told him that I represented some Canadian interests, I don't remember who I said I represented. I asked him pretty much the same thing as I asked——

Mr. Rose: I move that be stricken as a conclusion of the witness.

Mr. Lucas: I will stipulate it may be stricken.

The Court: Stricken.

The Witness: (Continuing) I asked him if he had received any offer from the Trinidad International Petroleum Company to exchange his Golden Quebec stock for stock and notes in the Trinidad Petroleum Company. I told him I represented some Canadian interests that were interested in buying the notes of that company, and we were bidding \$4.80 for the notes, and that the stock had a market of around \$5.00, and that the rate of exchange that had been offered to them by the Wake Development Company and the Trinidad International Petroleum Company in California would, naturally, represent him a profit at those figures, and therefore I thought that he might be willing to sell if he had made the exchange. And he told me, "No, I haven't made any exchange. I didn't know anything about it until now."

And I said, "Well, it looks like you have been asleep at the switch, you better get busy and write to them and find out just what kind of an agreement they will go into with you, and if it is still on the basis that it was made originally, we might be able to do some business together."

And he said, "Well, that is awfully nice of you to tell me that." He said, "I will certainly write them right away and find out all about it." And he was a very sociable type of fellow, I remember him especially well because he took me in the back and bought me a drink, of his office, and then he and I left together and he drove me down the street; and I remember him especially because he told me there was a full moon out that night, and

that was an omen of good luck, and he must have thought I was the good luck omen that [99] came to tell him about this deal. That is why I remember Pitts very well. That is all there was to Pitts' deal.

Later on I went to New York and received a letter that he had written in about stock, and I wrote to Wake Development Company and told them to send the regular form letter that we had agreed upon, to make him the regular offer. Later I heard he had sent in a check for the amount of shares he had; the amount of the shares I can't remember, but they were sent, and I was later sent my commission on the sale.

ASSIGNMENT OF ERROR NO. 17

The Court erred in overruling the objection on behalf of the defendants to the receipt as a Government Exhibit in evidence the exhibit identified as follows:

Q. By Mr. Lucas: Just answer the question, Mr. Carter, do you recognize the signature?

A. Yes, I recognize the signature as Ada Faulkner.

Q. There are certain penciled memoranda on the bottom of that letter, I think perhaps words, I know figures——

A. Yes.

Q. ——do you recall or know anything about those figures?

A. That is evidently my own handwriting; but I was trying to figure out how it got on there.

Q. All right. Do you recognize it as your own handwriting?

A. Yes, I do.

Q. And you do not now have any recollection of how it got on there?

A. No, I don't.

Mr. Lucas: I offer this as government's exhibit in evidence, and ask that it be made a part of Government's Exhibit No. 58.

Mr. Rose: We object to it on the ground that it affirmatively appears that certain notations in the handwriting of this [100] witness were put on there in undisclosed circumstances, and it, manifestly, is incompetent on that ground, in addition to the other grounds that I interjected to the copy of that letter.

The Court: Admitted.

ASSIGNMENT OF ERROR NO. 18

The Court erred in overruling the objection on behalf of the defendants to the admission of the following testimony on the part of the witness W. E. Warren (Carter):

Q. By Mr. Lucas: Now, Mr. Carter, do you remember a man by the name of F. A. Russell?

A. Yes, I do.

Q. Do you remember meeting him?

A. Yes, I do. The town is Leominster, I think, Massachusetts.

Q. Do you recall approximately the time you met him?

A. No I can't remember that.

Q. Do you recall the circumstances of meeting him and any conversation with him?

A. I think it was in 1939, although I am not sure, '38 or '39; the latter part of '38 or '39. I remember having his name and calling at his house. I told him that I understood——

Q. Who was present, now?

A. I beg pardon?

Q. You better tell us who was present, first.

A. Mr. Russell and his wife.

Q. All right.

Mr. Rose: Now, you are asking for the conversation?

Mr. Lucas: Exactly.

Mr. Rose: To which we object on the ground that no proper foundation has been laid. It is hearsay and incompetent.

The Court: He may answer. [101]

Mr. Rose: May an exception be noted?

The Court: Exception.

The Witness: While I was in Canada I had obtained some names of South McKenzie Island Mines, I think that is the correct name.

Q. By Mr. Lucas: Stockholders, you mean?

A. Stockholders, that's right, that were supposed to own that stock. Mr. Russell was on the list. I went into Mr. Russell's house and interviewed he and his wife in their living room. I told him that I understood that he owned some Trinidad International Petroleum notes, preferential profit-sharing notes, and that I represented some Canadian interests, we were interested in acquiring

those notes and were willing to pay around \$4.80, which was then the exchange rate for the pound sterling.

I asked him if he had any substantial amount of the notes, that I was interested in picking them up right away for the connection that I had. And he said, "Why, no, you must have it wrong."

And I said, "You are stockholder in the South McKenzie Island Mines Company, aren't you?"

And he said, "Yes, I have a lot of that."

Well, I said, "How many shares do you have?" I think he mentioned he had quite a number of shares, 10,000 or 15,000 shares. And I said, "Well, evidently you have been left out in the rain, because you could have exchanged those shares of stock for the Trinidad International Petroleum stock and notes, and besides having a certain number of shares of the Trinidad International Petroleum Company, which would be extremely valuable, you would also have the notes which you could sell to me now."

He said, "Well, that is certainly news to me." He said, "How will I find out about this proposition?"

I proceeded to give him the name of the Wake Development Company who was the fiscal agent, as I understood it, the fiscal [102] agent for the exchange, and I said if he proceeded to write to them he might be able to get some results.

He said, "Have you any suggested form that I should write to them?"

And I said, "No, I think you ought to be very

specific." I said, "I think you ought to go right to bat on the thing." I said, "Instead of you writing out there direct and asking for an inquiry, I think you ought to make a proffer of a check along with your stock and insist that they exchange it. Tell them that you know it can be exchanged."

Well, the amount of money that the transaction was supposed to involve was around \$3500.00, to the best of my recollection."

Q. What do you mean by that expression, "the amount of money——

A. Well, the arrangement for the exchange of stock as I had worked it out at that time would call for the shares of stock which he owned in the South McKenzie Mines plus \$3500.00 in cash.

I can't remember exactly what the arrangement was, but he said, "Well, I wouldn't want to send them \$3500.00 before I know that they would accept it." He said, "Don't you think it is better that I write them first and find out whether they will accept it?"

I said, "Well, I think that is a little weak." I said, "I tell you what you do. You make out a check for, say, 10 percent, make a bona fide offer," I said, "so you will have something concrete, then they will either have to turn it down or return it to you." I said, "That will get you quick action."

So he said, "Well, that's a good idea, I think that is just what I will do, I will write out a check for \$350.00 and I will send it right out there. Who will I make it payable to?"

And I said, "I imagine you should make it pay-

able to the Wake Development Company, because they are the fiscal agents in the transfer office for the stock." [103]

So he said he would do it. I remember it was a rainy night, and I had my umbrella, and I had taken my rubbers off, and I said, "I think I will be leaving."

Q. In this first conversation, did you say anything to Mr. Russell about Trinidad International Petroleum?

Mr. Rose: I object to that as leading and suggestive, your Honor. The witness has been, over objection, permitted to relate a conversation.

The Court: He may answer.

The Witness: Yes, I told him about the Trinidad International Petroleum Company, as I usually did everyone. I told him that this was——

Mr. Rose: Just a moment. I move that——

Mr. Lucas: I will stipulate that expression "as I usually do everyone" may be stricken.

The Court: Stricken.

The Witness: (Continuing) I told him the Trinidad International Petroleum Limited was headed by a group of men who had been formerly associated with Mr. E. L. Doheny in the enterprises of the Pan American Petroleum and Transport Company and Mexican Petroleum Company; that they had made large sums of money while associated with these enterprises; that during the time they had been with them they had acquired a group of properties in the British West Indies, namely, Trinidad, Port-au-Spain; that these prop-

erties had been put into the company, put into the Trinidad International Petroleum Company, after the properties that E. L. Doheny formerly controlled, namely, the Pan American Petroleum and Transport Company and Mexican Petroleum Company had been merged into the Standard Oil of Indiana—I think it was the Standard Oil of Indiana or New Jersey, if my memory doesn't fail me, I think it is Standard Oil of Indiana—and that now these men were expecting to do the same thing with the Trinidad International Petroleum that [104] they had done with the Mexican Petroleum; that the Mexican Petroleum stock had sold as high as \$400.00 a share on the stock exchange, and that the stock and notes of this company was traded both here in the Canadian markets and in London at around their par value, which was around \$5.00 for the stock and \$5.00 for the notes. That is about the extent of the story as I told it.

I usually had a paper with me that showed——

Mr. Rose: Just a moment.

The Witness: I had a paper with me——

Mr. Rose: Just a moment. The witness started to say “usually”; now he said he did have a paper. If he did, we want to see the paper if we are going to have any testimony about it.

Q. By Mr. Lucas: Did you have a paper with you?

A. Yes, I usually had one of the——

Q. Not what you usually had. Bearing in mind——

A. I understand.

Q. —the deal itself and the talk, did you then have a paper with you?

A. Yes, I had a paper with me at the time, and it was an English paper that I had for quite some time, and I showed him the various stocks and told him that this group was traded among that group, but I didn't designate which one, because I usually did that very quickly and just showed it as a flash, and then put it away.

Mr. Rose: Just a minute. Let me have that answer. Part of it I would like to stay in and the rest of it not.

(The answer was read.)

Mr. Rose: Starting with "because" I move that it go out.

Mr. Lucas: And what follows that "because"?

Mr. Rose: Yes; that is just the reason he gives.

Mr. Lucas: I will stipulate that those words after "because" may be stricken.

The Court: Stricken. [105]

Q. By Mr. Lucas: Thereafter did you communicate with the Wake Development Company in Los Angeles?

A. Yes, I did; I wrote them right away after leaving, within the course of a day or so, and told them to expect a letter with a check in it from Mr. Russell for \$350.00. I stated in my notation to the Wake Development Company or Mr. Danziger, if he was there at the time, I stated in my letter that this was 10 percent of the amount that they could expect to get after they signified their inten-

tion of making the exchange; that the \$350.00 was only a 10 per cent deposit on a \$3500.00 transaction.

In that letter that I sent to them I outlined the number of shares, how much credit they would receive for the shares and how many stocks and notes that I had worked out that the man would get.

Q. By Mr. Lucas: All right. Now, you have been using the name South McKenzie Island Mines in this transaction with Mr. Russell; had you prior to this time mentioned that company to Mr. Danzifier?

A. No, I can't say that I did, I can't recollect that I did, although I may have.

Mr. Rose: I move that the latter part be stricken.

The Court: Motion denied.

Mr. Rose: May an exception be noted?

ASSIGNMENT OF ERROR NO. 19

The Court erred in overruling the objections and in denying the motion of defendants to strike the following testimony of the witness W. E. Warren (Carter):

Q. By Mr. Lucas: Now, I show you Government's Exhibit 57, in evidence, and refer you thereto to what is marked "copy of Western Union telegram," it is dated December 2nd, 1938, addressed to George Carleton, Hotel Willard, 76th Street and West End Avenue, New York; is that the telegram you have been referring to [106] as having received?

A. That is one of them.

Q. And were you in this Russell transaction using the name Carlton?

A. That I can't answer. I used the name Carlton at the Willard Hotel, but I don't believe I used the name Carlton in carrying on my business with Mr. Russell.

Q. All right. Go right ahead.

A. I later received—after I had received this telegram advising me—at the Willard Hotel—as stated here, a copy of which is laid before me here, “Decided not interested in transfer of stock. Kindly return check as per letter. Unquote. Advise,” I called Mr. Russell on the telephone and I endeavored to find out from him what had made him change his mind. But Mr. Russell acted very suspicious—

Mr. Rose: I move that be stricken as a conclusion and opinion of the witness.

The Court: It may stand.

The Witness: (Continuing) Mr. Russell answered very curtly. He didn't talk to me in the tone of voice, or in the same manner that he had upon the occasion of my first visit. In fact, he had so little to say to me over the 'phone that I had to do nearly—make all the conversation myself, and as a result of my conversation with him—

Mr. Rose: Just a moment. I submit that calls for a conclusion of the witness.

The Court: You may continue.

The Witness: (Continuing) After my conversation I wrote a letter to Mr. Danziger stating that

I didn't know why he had changed his mind, but evidently something had happened to make him change his mind and, therefore, I would advise him to be guided accordingly, and it probably would be a good idea to issue him stock for the [107] amount of money he paid in on the basis of which the deal had been outlined.

ASSIGNMENT OF ERROR No. 20

The Court erred in overruling the objection on behalf of the defendants to the admission of the following testimony on the part of the witness, W. E. Warren (Carter):

Q. By Mr. Lucas: Now, Mr. Carter, you remember meeting a woman by the name of Adeline B. Skinner?

A. Yes, I do.

Q. Tell me, to the best of your recollection, when and where you met her.

A. I met her at her residence in New Jersey. I am a little vague about the town at the moment, because I haven't refreshed my memory. I was under the impression it was Farmingdale, but I do remember the woman had two addresses, and I don't remember just exactly whether it was Farmingdale or another town right near it. But my impression was it was Farmingdale.

Q. Do you recall the year you met her?

A. Offhad, I don't.

Q. Do you recall meeting her and having a conversation with her?

A. Yes, I met her for just a short time and spoke to her.

Q. Tell us who was present and what you said to her and what she said to you.

A. Well, I remember calling on her and asking her, telling her that——

Mr. Rose: Just a second. Objected to upon the following grounds; severally, your Honor: First, there is no proper foundation that has been laid; secondly, it is hearsay, that any conversation that this witness had with the person in question would be incompetent and not binding on the defendants now on trial. [108]

The Court: He may answer.

Mr. Rose: May an exception be noted?

The Court: Exception is allowed. Continue.

The Witness: I remember calling on her, it was in the summer, I told her I represented some Canadian interests, and as near as my recollection serves me I believe I told her I represented the Sterling Securities Company of Montreal, and I was interested in the purchase of some notes that I understood she owned in the Trinidad International Petroleum Company, and I wanted to know if she desired to sell them. And she said, "I don't have any notes in that company." And I said, "Well, that is very strange. According to the list of names I have, your name appears on it. Were you a stockholder in the Great Eastern Natural Gas Company that was the stock that was traded in for the Trinidad stock?"

And she said, "Oh, yes, I have some Great Eastern Natural Gas stock."

And I asked her how many shares she had. And to the best of my memory, I think it was a hundred shares of stock. And she said, "well, what would you suggest that I do?"

And I told her, I asked her if she had ever received any mail from the Trinidad company about offering an exchange, and she said, "Well, now, I don't know. I might have received something some time back, but I don't remember of ever doing anything about it." She said, "Well, is this stock any good?"

And I said, "Yes, the Trinidad International Petroleum stock is good, but the Great Eastern Natural Gas stock doesn't have any market; and I think it would be a very good idea if you got in touch with these people. You say you have a letter?"

Then she said, "Well, I will look it up."

And I said, "Well, I know where they are located in Los Angeles, California, and they have a fiscal agent by the name of the Wake Development Company. They make all the transfers. Now, [109] if you want the address I will be glad to give it to you. You communicate with them, and then at a later date I will come back and see you."

Then she asked me, "Well, does this stock have any value? Would there be any object in me making the exchange?"

And I said, "There certainly would, because the notes are worth about \$4.80. I would be will-

ing to pay that. The stock is worth around \$5.00 a share. There you would have \$10.00 worth of par value stock, and it would only cost you \$3.00 to make the exchange, plus your old stock, and that would certainly bail you out regardless of what you paid for the Great Eastern stock.”

And she said, “Well, that sounds very interesting to me, and I am very pleased to get the information and I shall write to them immediately.”

That was about all the conversation that took place. I think at the time I had an English paper with me and I showed her quotations of various Trinidad stocks, oil stocks that were listed, and told her that this stock was traded among those stocks on the English markets. That was about the sum and substance of my conversation, at my first and to my recollection my only meeting, although to my recollection there was something that transpired, to my knowledge.

Q. Did you afterwards telephone her?

Mr. Rose: May I have the last answer preceding the last question? We will save time. I was under the impression the witness made some remark that is all he remembered about the thing.

The Witness: After I left Mrs. Skinner’s residence I wrote the letter to the Wake Development Company advising them that I had made——

Mr. Rose: Just a minute. I object to that as not the best of evidence.

The Court: You may answer.

The Witness: I wrote a letter to the Wake Development [110] Company and told them that I

had made the call on Mrs. Skinner and they might expect an inquiry from her, and to answer her in the regular way as we had agreed previously to do on all inquiries of that type, and to advise me——

Mr. Rose: I move the latter statement be stricken as merely a voluntary statement on the part of the witness and a conclusion.

The Court: Denied.

Mr. Rose: May an exception be noted?

The Court: Exception. What do you mean, you agreed previously?

The Witness: On the calls, your Honor, there had been a prescribed routine laid down between the Wake Development office, Mr. Danziger, Mrs. Faulkner, and myself, which we adhered to a certain procedure in regard to all of these calls, and after we had made a certain number of the calls and had worked out the plan we always wrote instructions in a very terse manner, stating, "Give them the regular answer, short form," or "long form," and we used to say. There were, in the beginning, two versions of the type of answers that were to be made. Some of them were short and some were a little longer, and I usually stated which answer they were to give, according to the circumstances of the call, and then it was established—then it was agreed that whenever an inquiry came in they sent me a copy, either the original letter—in the beginning I received a great many original letters, and then as time went on I received copies of the original letters on yellow sheets or second sheets, showing what they had received from the

customer and what they had answered the customer, and then I would give any further instructions that I had at that time. That was all done by mail back and forth between New York and Los Angeles, or wherever I happened to be during my travels in making these calls.

Mr. Rose: I move that that statement be stricken on the [111] ground it is a conclusion.

The Court: The motion is denied.

Mr. Rose: That it is an opinion, that it is hearsay and no proper foundation laid, and not the best evidence.

The Court: Motion denied.

Mr. Rose: May an exception be noted?

The Court: Exception.

Q. By Mr. Lucas: All right. Now, getting back to the Skinner transaction, did you thereafter communicate with Mrs. Skinner by letter or telephone?

A. Well, no, I didn't, but I sent another salesman over there.

Q. Do you recall the name of the person whom you sent over?

A. Yes, I sent a man named Mike O'Brien. That was after I had received a notification from Los Angeles that there had been no further reply from Mrs. Skinner after they had sent her the letter stating what the proposition was.

Mr. Rose: I move that be stricken as a conclusion of the witness, no proper foundation laid, and not the best evidence.

The Court: Read the answer, please, Mr. Goldstein.

(The answer was read.)

The Court: The motion is denied.

Mr. Rose: May an exception be noted?

The Court: Exception.

The Witness: I remember Mr. O'Brien and I driving up near her residence and his leaving to make the call. It was agreed between Mr. O'Brien and I that he would then represent himself as a representative of the Wake Development Company to see why she had made the inquiry and why she hadn't exercised her right.

The Court Did she talk about another man?

Mr. Lucas: Yes.

Mr. Rose: Yes. I move that be stricken. [112]

The Court: Did she talk about another man?

Mr. Lucas: Exactly.

The Court: Your motion?

Mr. Rose: I move to strike the statement on the ground it is hearsay and incompetent.

The Court Motion denied.

Mr. Rose: Exception noted.

The Court: Exception allowed.

The Witness: Of course, I don't know what Mr. O'Brien said, but I know what he told me after he came out.

Q. By Mr. Lucas: Do you know if Mrs. Skinner purchased any stock or effected any deal with the Wake Development Company?

A. Yes. A week or so after Mr. O'Brien's call I received a notification that they had received a check from Mrs. Skinner, and I also received a copy of a letter which stated—which had been ad-

dressed to Mrs. Skinner, stating they had received her check and noted a lacking of endorsement on it and had placed an endorsement on it for her and sent it through in the regular manner for collection.

Q. Show you Government's Exhibits 39, 40 and 41, and ask you if you have seen any of those before. I mean before you came here in the court room.

The Court: What are Exhibits 39 and 40?

Mr. Lucas: They are letters that were introduced by Mrs. Skinner herself. I don't know that this witness has ever seen them.

Q. My Mr. Lucas: Do you have any recollection of ever having seen these before?

A. I couldn't have seen these identical letters. I have seen facsimiles of this letter numerous times.

Mr. Rose: I move that be stricken as a conclusion of the witness. Let the record reflect that his answer is that he doesn't recollect seeing the exhibits numbered 39 and 40; that his answer [113] about facsimiles relates to Exhibit 41, which is the Great Eastern Natural Gas Company letter.

The Court: Ask the question again. Strike it, Mr. Reporter.

Q. By Mr. Lucas: Mr. Carter, I show you Government's Exhibits 39, 40 and 41, and ask you if you have ever seen these exhibits before?

A. Not those specific exhibits, no. I have seen carbon copies of two letters there.

The Court: Do you want to move, Mr. Rose?

Mr. Rose: Well, we had an answer to this at first, and now he has changed his answer.

The Court: The question is do you want to move?

Mr. Rose: I move to strike that as a conclusion of the witness.

The Court: The letters you have just said you have seen copies of are these to Miss Skinner?

The Witness: Yes, I saw carbon copies of the letters to Mrs. Skinner.

The Court: Where did you get those?

The Witness: I received those from Los Angeles.

The Court: The motion is denied.

Mr. Rose: May an exception be noted?

The Court: From Wake Development Company?

The Witness: From the Wake Development Company.

The Court: Exception is allowed.

ASSIGNMENT OF ERROR No. 21

The Court erred in overruling the objection on behalf of the defendants to the admission of the following testimony on the part of the witness W. E. Warren (Carter):

Q. By Mr. Lucas: Now, Mr. Carter, I show you Government's [114] Exhibit 43 and direct your attention to a letter on the yellow second sheet dated August 18, 1939, and ask you if you have seen a

copy of that, or that particular exhibit before? Just that yellow second sheet.

A. Just the yellow sheet?

Q. That is what I am directing your attention to, first.

Mr. Rose: I object to it as leading and suggestive, your Honor; calling for a conclusion of the witness, no proper foundation laid.

The Court: Overruled.

Mr. Rose: May an exception be noted?

The Court: Yes, exception allowed.

The Witness: Yes, I saw a copy of this letter. That is the regular form letter that we always sent, and I saw a copy of this because I remember receiving it.

The Court: Who did you receive it from?

The Witness: From the Wake Development Company, Los Angeles.

Q. By Mr. Lucas: I show you a letter, a yellow second sheet, August 23, 1939, addressed to Mrs. Skinner, and ask you whether or not you have seen that or a copy thereof?

A. I don't remember seeing this.

Q. I direct your attention to a carbon copy of a letter on a yellow second sheet dated September 12, 1939, and ask you if you have ever seen that or a copy thereof?

A. Yes, I have seen this. I had a copy of this.

The Court: Where did you get it?

The Witness: I received this from the Wake Development Company in the natural course of business.

Mr. Rose: I move that the latter statement be stricken as a voluntary statement, conclusion and opinion of the witness.

The Court: Denied.

Mr. Rose: May an exception be noted? [115]

The Court: Exception.

ASSIGNMENT OF ERROR No. 22

The Court erred in overruling the objection on behalf of the defendants to the admission of the following testimony on the part of the witness, W. E. Warren (Carter):

Q. By Mr. Lucas: Do you remember a man by the name of E. Barrie Smith?

A. Yes, I remember the name.

Q. Do you recall the circumstances of meeting him?

A. Yes, I remember the circumstances.

Q. And where did he live?

A. To the best of my recollection, it was Hartford, Connecticut.

Q. Do you recall approximately the time that you talked with him?

A. I can't give you that, no.

Q. All right. Have you any recollection of what was said between you and Mr. Smith?

A. Yes, I remember the occasion of calling on Mr. Smith at his business office, and——

Mr. Rose: Just a second. I expected a yes or no answer. Objection is had to this proposed or solicited conversation upon the following grounds:

One, that no proper foundation has been laid; secondly, it calls for hearsay; thirdly, that it is incompetent; finally, that it is not binding on the defendants.

The Court: Who is E. Barrie Smith?

Mr. Lucas: He is one of the counts in the indictment, your Honor.

The Court: Objection is overruled.

Mr. Rose: May an exception be noted?

The Court: Exception. [116]

The Witness: I asked E. Barrie Smith if he had any Trinidad preferential profit-sharing notes. He said to me, "Why, no. Why do you ask me that?"

I said, "Well, I had your name on a list here as being a possible owner of the notes of that company, and I represent some Canadian interest who are interested in buying the notes."

And he said, "No, I never heard of it."

I said, "Well, do you own any other Canadian securities, principally Golden Quebec Mines Limited?"

He said, "Yes, come to think about it, I do own some shares in that."

At the time when I made the call, I knew how many shares——

Mr. Rose: I move that be stricken as voluntary and not responsive.

The Court: Denied.

The Witness (Continuing): I knew ahead of time how many shares he had, and my memory doesn't serve me now as to how many it was,

but I asked him to tell me how many shares he had, and he answered a certain number of shares, I can't remember how many it was, I don't believe it was a very large amount, and he said, "What has that to do with it?" And I said, "You can exchange those shares for Trinidad International Petroleum stock and notes if you will write to the company in Los Angeles and tell them that you own the securities and that you have never been made aware of the rights to exchange it, or any offer ever having been made to you previously."

He said, "Well, why would I get stock in an oil company for gold mining stock?"

And I stated to him that the properties of the Golden Quebec Mines Limited were being sold in a receivership proceedings, and that my understanding was some men interested in oil properties were going into the gold business in Canada and were buying up the properties out of receivership, and because there were certain [117] difficulties between the stockholders and the committees for the receivers, that they had made an arrangement whereby the owners of the Trinidad oil stocks were going to allow them to buy some shares in this company for any equity that they might have had in the old Golden Quebec properties. And he said it was the first he had ever known about it, but he would write out there and see if he couldn't exchange his shares. And that was about all the conversation I had with him, and he said, "Well, will I hear from you again?" And I said, "Yes,

I will get in touch with you probably in a couple of weeks and see if you have the notes, and at that time we can do some business.”

Q. By Mr. Lucas: Did you ever thereafter personally call on Mr. Smith again?

A. Not to my recollection.

Q. Did you communicate in any way with the Wake Development Company?

Mr. Rose: Object to that as calling for a conclusion of the witness and not the best evidence.

The Court: Overruled.

The Witness: I did communicate with the Wake Development Company on that call and told them the circumstances of my call, briefly, stating that I had made a call and they would receive an inquiry, and to answer them in the regular form letter that we had arranged previously to answer on all inquiries from stockholders of the Golden Quebec Mines Limited.

Mr. Rose: I move that the answer be stricken on the ground that it incorporates a conclusion and declaration on the part of this witness in the absence of a document and its contents.

The Court: Denied.

Mr. Rose (Continuing): Its inability of production.

The Court: Motion denied.

Mr. Rose: May an exception be noted?

The Court: Exception. [118]

ASSIGNMENT OF ERROR No. 22-A

The Court erred in overruling the objection on behalf of the defendants to the admission of the following testimony on the part of the witness W. E. Warren (Carter):

Q. By Mr. Lucas: I refer you to another carbon copy on a yellow second sheet addressed to E. Barrie Smith dated February 6, 1939, and ask you if you have seen that or a copy thereof.

A. I don't remember seeing this one. I didn't usually receive those.

Mr. Rose: I move the latter statement be stricken as voluntary.

The Court: What was the last part, Mr. Reporter?

(The answer was read.)

The Court: Denied.

Mr. Rose: May an exception be noted?

The Court: Exception.

ASSIGNMENT OF ERROR No. 23

The Court erred in overruling the objections and in denying the motion of defendants to strike the following testimony of the witness W. E. Warren (Carter):

Q. By Mr. Lucas: I show you a carbon copy of a letter dated January 23rd, 1939, and ask you if you recall ever seeing that or a copy thereof?

A. Yes, I have seen a copy of this. I had a copy of it.

Mr. Rose: I move that be stricken as a conclusion of the witness and not the best evidence.

The Court: Denied.

Mr. Lucas: Now, I offer in evidence, if the court please, as a part of Government's Exhibit 59 in evidence, an original check dated January 24, 1939, drawn on the Hartford National Bank and [119] Trust Company, Farmington Avenue Branch, signed "E. Barrie Smith." Also an original letter dated January 10, 1939, addressed to Mr. E. Barrie Smith, and containing the signature, "A. Faulkner;" original letter dated January 19, 1939, addressed to E. Barrie Smith, signed "A. Faulkner," carbon copy of which letter is already in evidence and is a part of Government's Exhibit 59; original letter dated January 26, 1939, addressed to E. Barrie Smith, signed "A. Faulkner," carbon copy of which is already in evidence in Exhibit 59; original letter dated February 6, 1939, addressed to E. Barrie Smith, on the letterhead of Wake Development Company, signed "E. Wake," below that signature "Asst. Secretary," a carbon copy of which is already in Government's Exhibit 59; and ask that these documents which I have previously shown to counsel be made a part of Exhibit 59, which contains the correspondence heretofore introduced in evidence, and as a part of the offer I state that these come to me from the Securities and Exchange Commission.

Mr. Rose: That last declaration of counsel, I take it, is immaterial and really doesn't form a part of the offer.

Mr. Lucas: No; by way of explanation only, Mr. Rose.

Mr. Rose: I don't think it has any place in the record. I haven't any objection, your Honor, to the check, for the reason that the check appears on its face and on the opposite side, by usual bank stamps and clearing house significations, to show that it was deposited to the credit of the Wake Development Company. But as to the others, that is, the letters identified, I object to them on the ground that no proper foundation has been laid, and they are immaterial.

Q. By Mr. Lucas: I ask you if you remember a man by the name of Michael Burns?

A. Yes, I do.

Q. Do you recall approximately when you met Mr. Burns? [120]

A. I can't recall the date.

Q. Do you know where Mr. Michael Burns lived?

A. I think it is in Peekskill, New York.

Mr. Rose: Let me have the town.

(The answer was read.)

Q. By Mr. Lucas: Do you recall the circumstances of any conversation with Mr. Burns?

A. Yes, I do.

Q. Where did it take place?

A. It took place in his grocery store.

Q. Well, now, will you state what he said to you and what you said to him?

Mr. Rose: To which objection is made on the following ground: One, no proper foundation has been laid; it calls for hearsay, the same is incompetent and not binding on the defendants on trial.

The Court: Objection is overruled.

Mr. Rose: May an exception be noted?

The Court: Exception.

The Witness: I told him I represented some Canadian interests that were interested in buying his notes of the Trinidad International Petroleum Company. He said to me, "I don't recollect having any notes in a company like that."

I told him he better look over his records and make sure, because his name appeared to be upon a list of stockholders that hadn't exchanged their stock and notes for this company, he surely must have made the exchange. And he said, "Well, now, what stock is that?"

And I said, "The Great Eastern Natural Gas Company. Several years ago they made an offer to exchange the shares of stock for stock and notes in their company, and you must have some record of that." [121]

He told me that he had a vague remembrance of receiving something of that nature some time back, but for some reason or other he had never taken any action on it. He said, "Is the stock of the Trinidad Company any good?"

I said, "Well, it certainly is, because you can sell the notes for around \$4.80, and that would leave you with the stock that you would get on the the exchange, which also has a value of around \$5.00 a share, and the chances are that the stock will show a much greater appreciation in value over a period of time, because it is headed by a former group of the Pan American Petroleum

and Transport and Mexican Petroleum crowd, they own all these properties and took them after the Pan American Petroleum and Mexican Petroleum were merged into the Standard Oil of Indiana in 1929, headed by a man named Mr. Danziger who is a very big man in the oil business, and all of his former associates in those companies are now associated with him in this new enterprise. The stocks are traded in the London markets.”

I had a paper with me and I showed him the quotations of the various Trinidad stocks and told him the Island of Trinidad was now going to furnish most of the oil to the British Empire; that all the stocks there would show a very rapid appreciation, undoubtedly, and this Trinidad stock was to be classed among them.

He said, “Well, what do you suggest that I do?”

I said, “Well, it is pretty hard for me to tell you what to do, but if I were in your position, I think I would immediately dispatch a letter to the Trinidad Company and tell them that you have never received your right to make this exchange, and you would like to make it now. See what they say.”

He said, “Will you give me an idea just about what I should write?”

And I said, “Yes, I will be glad to tell you what to write. On second thought, I think you better direct your letter to the [122] Wake Development Company; they seem to be the fiscal agents for everything that is handled by the Trinidad Company, and you will probably get your stock from

them. As I understand, they make the transfer and handle all the transactions." So then I outlined a form of letter for him verbally, and he said he would send that letter. And he said, "Will you be back to see me?" and I said, "Yes, I will get in touch with you either by 'phone, or I will come out and see you in person when I get in this neighborhood. I would attend to the matter right away, I wouldn't let any grass grow under my feet," I said to him. That was the end of that.

Q. What did you do after that, if anything?

A. Well, when I left him I wrote a note to the Wake Development Company in Los Angeles, addressed it to Mr. Danziger or Miss Faulkner, I wouldn't remember that, I just directed it to the Wake, to the company, told them that I had made the call and expected an inquiry from him, and to answer him in the usual manner, the regular form which we had outlined to answer to those inquiries, and to advise me when they received the inquiry.

Q. Now, I show you——

Mr. Rose: Just a second.

Mr. Lucas: Pardon me.

Mr. Rose: I move that the answer be stricken, in addition to the grounds interjected to the conversation, on the ground it is not the best evidence, and it is, in part, voluntary and a conclusion of the witness.

The Court: Motion is denied.

Mr. Rose: May an exception be noted?

The Court: Exception.

Q. By Mr. Lucas: I show you, after having

first shown to counsel, a certificate of stock of the Great Eastern Natural Gas Company, Incorporated, being Certificate No. 1743 for 100 shares of stock, and I ask you to examine that and tell me if you have ever [123] seen the certificate before?

A. It seems to me I had this certificate in my possession.

Q. And do you recall from whom you received it?

A. Well, I received, to the best of my remembrance, a number of Great Eastern certificates from the Wake Development Company, telling me that they had no use for the particular certificates, and if I had any manner of disposing of them or use for them, I might as well have them; and I believe this was among them.

Mr. Rose: Just a moment. I move that be stricken on the ground it is surmise, conjecture, speculation, no proper foundation laid.

The Court: I consider this preliminary.

The Witness: May I ask you where you received this?

Mr. Lucas: I received it from your counsel, Mr. Ames Peterson.

Q. By Mr. Lucas: I want to direct one further question to you—

Mr. Rose: Just a moment. There is a motion pending here.

Mr. Lucas: The court indicated he considered my question preliminary.

Mr. Rose: I don't consider it preliminary. I may be in error, of course.

The Court: What are you waiting for?

Mr. Rose: A ruling on the motion, your Honor.

The Court: I am not going to rule. I said I consider it preliminary.

Mr. Rose: Pardon me. I didn't hear the exact language.

Q. By Mr. Lucas: I direct your attention to the back of the stock certificate, where, under the words "In presence of" there is a handwritten signature and the words "George Williams," and I ask you to look at that signature and tell me if you signed it.

A. Yes, I did. [124]

This also refreshes my memory somewhat more on——

Mr. Rose: Just a second.

The Witness (Continuing): ——on the call.

Mr. Rose: I think the witness has exhausted his reply to the question against which a motion was addressed.

The Court: Go ahead.

Q. By Mr. Lucas: Go ahead, Mr. Carter.

Mr. Rose: Did your Honor rule on that motion?

The Court: Not yet.

The Witness: I recollect at the time of my call with Mr. Burns now, that he brought out the certificate of the Great Eastern Natural Gas Company and told me that he was going to send it in, along with his inquiry, that he thought that probably by doing that it would make it more definite. I don't remember now whether he told me he would send the check along with it at the same time or

not, but he was going to make his inquiry and send the certificate in anyhow. Whether he sent the money in at the same time, I don't remember, but I do remember when he brought the certificate out he signed it and he had me witness his signature.

Q. And you then signed your——

A. I signed the name George Williams, the name under which I called on him.

Q. That was the name you used?

A. I used in making the call.

Mr. Lucas: I now offer this certificate in evidence and ask that it be made a part of the Burns file, which is Exhibit 61, your Honor.

Mr. Rose: I will have to add to my objection. At this time, your Honor, I move that the intermitten and several portions of the answer composing the replication to the antecedent question——

The Court: Pardon me. Let me ask a question. [125]

Did this ever get to the Wake Development Company, do you claim, Mr. Lucas?

Mr. Lucas: The testimony of the witness is that he thought he received it back from the Wake Development Company.

The Court: The testimony is too indefinite. I reject the offer.

Mr. Rose: Is his answer stricken?

The Court: No, the exhibit is rejected.

Mr. Rose: How about the—I better renew my motion. I move to strike——

The Court: Strike all the testimony on the subject.

Mr. Lucas: If the court please, I offer in evidence and ask that it be made a part of Exhibit 61, in evidence——

Mr. Rose: In the interest of time here, I take it you are going to repeat the same situation as arose in connection with that—about three exhibits back?

Mr. Lucas: In connection with the E. Barrie Smith file?

Mr. Rose: Yes. In order to save time, insofar as it appears to me, I will stipulate that Mr. Mainland came into possession of these documents by asking and sending for them to the addressee, like he testified in the other matter, and that the signatures that appear upon these proposed documents are the true signatures affixed thereto by the persons whose names are thereto subscribed.

Mr. Lucas: I will accept that.

Mr. Rose: With that part we will save a lot of time. You now offer them?

Mr. Lucas: I now offer them, based on counsel's statement and the other matters in evidence, these following documents: A letter on the letterhead of the Wake Development Company dated December 30, 1938, signed "A. Faulkner;" another letter on the letterhead of the Wake Development Company, dated January 6, 1939, and signed "A. Faulkner;" another letter on the letterhead of Wake [126] Development Company, dated January 25, 1939, signed "A. Faulkner," together with

the accompanying shares of stock of the Trinidad International, and accompanying profit-sharing notes. I offer them in evidence, all of the documents being addressed to Mr. Michael Burns, and ask that they be made a part of Government's Exhibit 61.

Mr. Rose: To which objection is had on the grounds it is wholly irrelevant and immaterial.

The Court: They are admitted.

The Clerk: Part of 61.

Mr. Rose: May an exception be noted?

The Court: Exception.

ASSIGNMENT OF ERROR No. 24

The Court erred in overruling the objection on behalf of the defendants to the admission of the following testimony on the part of the witness W. E. Warren (Carter):

Q. By Mr. Lucas: When and in what manner did you first contact Dr. Hazelton?

A. I called him on the telephone from Philadelphia.

Q. What did you say to him and what did he say to you?

Mr. Rose: Just a moment. I object to that, your Honor, on the ground that no proper foundation has been laid; the same calls for hearsay, it is incompetent and not binding on the defendants on trial.

The Court: He may answer.

Mr. Rose: May an exception be noted?

The Court: Exception is allowed.

The Witness: I told him that I understood that he had some Martin Custom Made Tire stock. I asked him to confirm my impression of his ownership of the stock, and he said yes he owned some stock and asked me what I knew about it. And I told him, of [127] course, the company was in difficulty, receivership, and that there were some special interests that were interested in buying the stock, and I could offer him a dollar a share for his stock. Well, he said he didn't believe he would want to sell it, but he said, "I would like to talk to you about it." I said, "Well, I will be very happy to drop in and see you some time when I am over in your locality. That may be within the next week or ten days."

He said, "Well, be sure to do so, because I would like to get any information you have."

About a week or so after that I did go to his dental office in Mantua, New Jersey—

Q. By Mr. Lucas: Let me interrupt you here. That is the same Dr. Hazelton who has heretofore testified in this case?

A. Yes, it is.

Q. All right.

A. And I told him my name was Roberts on my first call, and on my—

Mr. Rose: Just a moment. To expedite matters, if you consent that his answer be stricken, ask him to relate the conversation so I can get my objection in.

Q. By Mr. Lucas: Just relate the conversation.

Mr. Rose: Just a second, please. Do you consent that his answer previously given may be stricken?

Mr. Lucas: His immediately preceding answer may be stricken by stipulation.

Mr. Rose: Very well. Is that agreeable to your Honor?

The Court: Yes.

The Witness: I told him——

Mr. Rose: Just a moment. I am objecting to this present conversation that is now being sought to be elicited from the witness upon the grounds: one, that it calls for hearsay, that no proper foundation has been laid, the same is incompetent and is not [128] binding on the defendants now on trial.

The Court: He may answer.

Mr. Rose: May an exception be noted?

The Court: Exception.

The Witness: I told Dr. Hazelton that I was the Mr. Roberts that had called him on the telephone. And he said, "Oh, yes, would you mind waiting? I have a patient in my office. Just make yourself comfortable.

And after about 20 minutes he opened his door and said, "Come in." I went into his dental office. I asked him how many shares of Martin Custom Tire stock he had. He said he had 300 or 400 shares of the stock. And I said, "I suppose you paid three or four dollars a share for the stock? He said, "Yes, that's right."

I said, "You don't feel that you would be interested in selling it at a dollar a share." And he said, "No, I think I might hold on to it because I had a letter from the company and they told me there might be a reorganization."

I told him then that I was a trader in securities, that I did have an affiliation with a large oil company in Los Angeles, California, that I represented them in certain matters pertaining to their securities, and they had a stock that showed unusually attractive possibilities. I told him that the men that were connected with this Trinidad Company—and then I named the company, the Trinidad International Petroleum Company—and I said, "The men that head up this company are some of the best known oil men in the business, they comprise the old crowd that headed the Pan American Petroleum and Transport Corporation and the Mexican Petroleum Company, they were more commonly known as the E. L. Doheny oil crowd." I asked him if he had remembered the spectacular market activities of Pan American Petroleum and Transport stock when it was listed on the Stock Exchange, and he said no he didn't remember that so much. And I told him it used to go up three and four hundred dollars a share [129] and down like a curtain on a roller, and that this crowd would probably be able to do the same thing with the Trinidad International Petroleum stock. I told him that the stock was then selling in the neighborhood of around \$12.00 or \$13.00 a unit, that the stock was around five or six dollars a share, and that the

notes were worth about five, five to seven dollars, depending on how he sold the notes. I told him the stock was closely held and it wasn't easy to get a block of the stock, but that I had some people who had a block of stock that I thought might be interested in selling it. I told him that I thought it would be a very good idea if he bought into this company. He said it sounded very interesting to him. And he also told me, "What do you know about a stock called "Communications Research"? Since I previously had been advised about his holdings in Communications Research, as well as the Martin Custom Made Tire stock by a broker in New York who gave me his name, I told him that I thought it was a promising prospect in the television group of stocks, one of the newer television companies, and since that broker had asked me not to take the stock away from him, I told him that I thought he ought to hold on to it, it might have good speculative possibilities. Then I told him—I asked him what other stocks he owned. He got out a list of about five, or seven—five or six stocks, to the best of my memory, and gave me the names of them, and I wrote them down. I told him that I thought it might be a good idea if I looked up these stocks and made a report to him about what I thought the future possibilities were on them, and then I would call back and give him my idea of those I think he should sell, and dispose of and put into the Trinidad Oil Company. I told him then that I didn't think he ought to sell any of them without my first getting an opportunity to look

each one of them up individually, and then make suggestions to him. He said he thought that was an excellent idea. And to the best of my recollection I left him at that time. [130]

Q. By Mr. Lucas: All right. Did you thereafter come back and talk with him again?

A. To the best of my recollection I was back to see him within a very short time. Before I went back to see him I visited A. D. Phelps, a broker in New York, an over-the-counter stock broker. Mr. Phelps had previously given me the name, with the understanding that if I sold him any stock that I would cut him in on any profits that would be made out of the transaction. Mr. Phelps did desire to obtain some shares of stock in the Martin Custom Made Tire Company. He told me he could resell the stock at a profit to him, and he would pay me a dollar for any stock I could take in.

When I left Dr. Hazelton I went back to see Mr. Phelps in New York, and I explained to him the number of stocks that this man had, and I told him that I was interested in selling him a block of Trinidad International Petroleum stock, in which I had a connection in California where I could receive the stock from.

Mr. Phelps said, "Well, that is all right with me. What are you going to do with the stocks when you take them in from him?" Meaning the list of stocks Mr. Hazelton had.

I said, "I intend to turn them over to you for sale."

He said, "As long as I don't get involved in the

Trinidad sale of stock, it will be all right with me. I will sell the stocks, but you will have to get a power of attorney from the man stating that I have the power to turn the money over to you after you sell them."

I said, I knew that, and I would do that, and I told him that undoubtedly he could expect to receive the stocks by registered mail from Dr. Hazelton within a few days, along with a power of attorney and a letter of instructions telling him to sell the securities and turn over the proceeds to me for investment as I saw fit.

Then I returned to Dr. Hazelton and I told Dr. Hazelton that [131] I thought——

Mr. Rose: Are you starting a conversation—May those few words go out? Well, they are innocuous. I take it he is going on with a conversation.

Mr. Lucas: I take it so too.

Mr. Rose: At this time, your Honor, I object to the conversation that is now started to be elicited on the ground that the same is incompetent, irrelevant, immaterial, hearsay and is not binding on the defendants now on trial.

The Court: Objection is overruled.

Mr. Rose: May an exception be noted?

The Court: Exception is allowed.

The Witness: I then returned to visit Dr. Hazelton, and at that time I obtained his permission—or he consented to send a certain list of securities which we had talked about to be sold, with a power of attorney and letter of instructions to A. D.

Phelps, with further instructions to turn the proceeds of the sale over to me in New York.

Q. By Mr. Lucas: Now, I show you Mr. Witness, a letter dated July 6, 1938, heretofore marked as Government's Exhibit 23 in evidence, and ask you if that is your signature, "A. L. Roberts" on the second sheet thereof.

A. Yes, that's mine.

Mr. Rose: Let me take a look at it. It will save time, because I will know if I want to object or not. This is already in?

Mr. Lucas: That's right.

Q. By Mr. Lucas: I want you to notice the date, first, of this document, Mr. Carter. The exhibit is dated in July, 1938.

A. Yes, I noticed that. I was in error about the date that I called, but that can be expected. I notice this is 1938.

Q. Do you now desire——

Mr. Rose: Just a second. Wait a moment. I move that his answer be stricken as voluntary, induced by a leading and suggestive [132] question. The direct testimony of this witness, as your Honor will recall, is that he first met Dr. Hazelton in 1940. Now counsel is directing his attention to an exhibit, in order to suggest to this witness that he go back two years before that time. I think it is grossly improper.

Mr. Lucas: I merely wanted, if the court please, to give the witness an opportunity to correct his answer heretofore made, if he so desires.

The Court: Continue.

Q. By Mr. Lucas: Do you want to correct your statement heretofore made that you first met Dr. Hazelton in 1940?

A. Yes, I want to correct that, because of the time element. I can't be correct on dates all the time. That was so long ago, while the instances are firm in my mind, the dates may be wrong, and that is the reason I have usually said that I can't be sure of the dates. I do recollect now that I see this letter that it was previous to the time, and it couldn't have been in 1940, on further refreshing my mind, because I was doing other things at that time also. I don't know why I said '40, but it is one of those things.

Q. By Mr. Lucas: Directing your attention, again, to that exhibit, did you receive the stocks which are reflected on that exhibit from Dr. Hazelton?

Mr. Rose: I object to it as immaterial and not binding on the defendants: It is *res inter alios acta*.

The Court: Overruled.

The Witness: May I read this?

Q. By Mr. Lucas: Certainly, if it will help you.

A. Yes, this letter is one I wrote to Dr. Hazelton which confirmed the agreement that I entered into with him, and as I have outlined here in my testimony.

Q. Did you receive the proceeds from the sale of that stock?

A. Yes, I did. [133]

Q. What did you do with the proceeds?

A. Well, at that time I communicated with the Wake Development Company, Mr. Danziger was there at the time, I believe——

Mr. Rose: I move that be stricken as a conclusion of the witness.

The Court: Stricken.

The Witness: (Continuing) I communicated with the Wake Development in Los Angeles and told them that I wanted to make a transaction, that I had made a certain representation to Dr. Hazelton about the Trinidad International Petroleum stock. I told them that I was representing myself as A. L. Roberts, and that I was making arrangements to make a sale of Trinidad International Petroleum stock and its notes, and that they would receive the regular stipulated amount, which was one-third of any proceeds I received from the sale, and that I would retain the balance for myself.

Mr. Rose: I move that entire answer be stricken on the ground that it is hearsay, not the best evidence.

The Court: The motion is denied.

Mr. Rose: May an exception be noted?

The Court: Exception is allowed.

Q. By Mr. Lucas: All right. Now thereafter did Dr. Hazelton become a purchaser of any Trinidad stock?

A. If my memory serves me correctly, upon sending the funds, which I did, to Los Angeles for stock, I asked them to make certificates in my name, or in the name of A. L. Roberts, and to for-

ward them to me, and I would give them to Dr. Hazelton, and later have Dr. Hazelton transfer them.

That is the best of my recollection now of the transaction. It was something like that, anyhow.

Q. Do you recall from memory the number of shares of stock that Dr. Hazelton acquired in this transaction? [134]

A. Well, I think it was around 600 shares, four or five hundred, six hundred, I can't be definite on it.

Q. I show you Government's Exhibit 25, in evidence, consisting of three letters from the Wake Development Company, signed "J. M. Danziger" in two instances, "A. Faulkner" in the other, and ask if the use of those exhibits would refresh your recollection as to the transaction.

Mr. Rose: Just a second. Now, may I have the question?

(The question was read.)

Mr. Rose: I object to it as leading and suggestive. I submit that the rules of evidence are quite clear that the witness may refresh his recollection or resort to some memorandum made by him or by some memorandum in which he participated at or near the time. The question in its present form is clearly leading and suggestive and incompetent.

The Court: Who is that correspondence between?

Mr. Rose: Between J. Arthur Hazelton and the Wake Development Company; and it has gone in, your Honor, by the foundational testimony of Dr.

Hazelton that he received these particular communications in the mail. We have a personal conversation that it is a communication he received from Wake. Now, they are in evidence. Now the present question seeks to have him read something and then have him amplify this tale he is telling here by reading these letters.

The Court: Don't you believe what he is telling, Mr. Rose?

Mr. Rose: Frankly, I don't think—there are certain things that, undoubtedly, are correct that he did say, your Honor; but there are certain things that he said in connection with this transaction with Hazelton that I disbelieve totally and completely.

The Court: How would this correspondence between third parties aid his recollection, Mr. Lucas?

Mr. Lucas: I don't know. I take it from reading it myself [135] that it is corroborative and would aid him in determining whether it was six or seven hundred shares, because the exact amount of shares sent to Dr. Hazelton is reflected in that letter.

The Court: It would be leading in effect.

Mr. Rose: Dr. Hazelton, your Honor, has——

Mr. Lucas: I will withdraw it.

The Court: It is withdrawn.

Q. By Mr. Lucas: I show you Government's Exhibit No. 27 in evidence, and call your attention to a document that is attached or clipped onto the back of this certificate, denominated here "Irrevocable stock power", the signature thereon is "Arthur

L. Roberts," and ask you if that is your signature.

A. A. L. Roberts.

Q. Yes, A. L. Roberts. Did I say something different? I am sorry. Is that your signature?

A. That is my signature.

Q. Is the handwriting——

A. That is my handwriting, yes.

Q. ——with the signature over on the left-hand side above the word "Witness", where we find "B. M. Walker"—do you know whose signature that is?

A. No, I don't remember that.

Mr. Rose: What is the answer?

(The answer was read.)

Q. By Mr. Lucas: I show you Government's Exhibit 28, being a stock certificate of Trinidad International Petroleum Limited, to which there is also attached an irrevocable stock power, and direct your attention to the name and signature "A. L. Roberts", and ask you if you signed that, and if it is your signature?

A. Yes, that is my signature. The writing is also mine for the transfer of 100 shares of stock in my name. This is 100 shares of notes. [136]

Q. You are speaking of Exhibit 27?

A. It was transferred out of my name into Dr. Hazelton's name.

Q. I show you, now, Witness, Government's Exhibit 29, in evidence, being a cashier's check payable to A. L. Roberts, drawn on the Farmers National Bank of Mullica Hill, New Jersey, particularly I direct your attention to the endorsement

on the back of the check "A. L. Roberts" and ask if that is in your handwriting?

A. No, that's not.

Q. Did you have any conversation with Dr. Hazelton about that check?

A. Yes, I did.

Q. State that conversation, please.

A. I wrote a letter to Dr. Hazelton——

Mr. Rose: Just a second. He has been asked to relate a conversation, and now he is starting to tell us about something else. Mr. Lucas, don't you think you ought to have him stay with the conversation?

Mr. Lucas: What is the pending question?

(The question was read.)

Q. By Mr. Lucas: Will you answer the question to the best of your ability, please?

A. Well, this check resulted from correspondence I had with Dr. Hazelton.

Q. I show you, then——

Mr. Rose: I move that the answer be stricken on the ground that it is not responsive. He was asked if he had a conversation in respect to this check.

The Court: Stricken.

Q. By Mr. Lucas: I show you, Mr. Witness, Government's Exhibit 39, and ask you if that letter in its entirety, and the signature thereon, is your handwriting? [137]

A. This is my handwriting.

Q. Did you write the letter?

A. Yes, I did.

Q. Is that the letter that you spoke of a moment ago?

A. Yes, it is.

Q. Mr. Carter, before the noon recess we were starting into the 1940 transactions between you and Dr. Hazelton. Did you have any communication or correspondence with Mr. Danziger or the Wake Development Company after you contacted Dr. Hazelton in 1940?

Mr. Rose: I object to the form of the question as leading and suggestive. There is a conflict in the testimony on the part of this witness with his observations as to when and what conversation and when the transaction occurred.

The Court: You may answer.

The Witness: Yes, I had communications by mail with Mr. Danziger in Los Angeles. I wrote him and told him that I——

Mr. Rose: Just a minute. I object to it on the ground that no proper foundation has been laid; it is a conclusion and opinion of the witness, and not the best evidence.

The Court: Objection overruled.

Mr. Rose: May we have an exception?

The Court: Allowed.

The Witness (Continuing) I wrote him and told him that I was going to try to make a new deal, a re-load deal on the Hazelton account, which I had sold previously in 1938.

Mr. Rose: Let me hear that.

(The answer was read.)

Q. By Mr. Lucas: Go ahead.

A. I asked him at the time if he had any material that he could furnish me in the form of a letter as to any recent activities or new activities that might take place, and I stated at the time, generally, that my thought was that I could get about [138] \$5000.00 minimum from Mr. Hazelton, and that I needed something in the form of a new letter. He wrote me a letter back, and he sent me a letter, I can't remember the contents of it all now, but it was a letter addressed to A. L. Roberts—

Mr. Rose: I move that be stricken as not the best evidence, no proper foundation——

The Witness: And to the best——

Mr. Rose: Just a second.

The Court: Do you have the letter?

The Witness: No, I don't.

The Court: Do you have it, counsel for the government?

Mr. Lucas: I take it from what the witness has gone along on, your Honor, that we are now getting to Exhibit 31. May I have it? It is in for identification. Your Honor may not remember it, but it was marked for identification when Dr. Hazelton was on the stand. He testified that it was a copy made in his handwriting of a letter I think this witness is referring to now.

The Court: You might show it to Mr. Rose.

Mr. Rose: I recall it very well, your Honor. May I point out to your Honor the state of the record in connection with this item? This is a letter in the handwriting of the witness Hazelton

that he said he made of some letter that he had received in the mails from this witness——

Mr. Lucas: No. He received——

Mr. Rose: Just a minute. I am addressing the court, and I think I know what I am talking about.

Mr. Lucas: I am sorry, Mr. Rose.

Mr. Rose: I will have to start over again. The state of the record will substantiate this in connection with this particular Exhibit 31. The witness, Hazelton, your Honor, stated that he had a conversation with this witness about getting some kind of a letter from him; that he received a letter from him, this witness, [139] with instructions to return it to him, not to Wake or Danziger or anybody, but to return it to this man here. He said he thereupon made in his own handwriting what he testified to was a copy of the letter that was sent to him from Roberts or this witness, and that this letter purports to be a copy of a letter that this witness sent to Hazelton, and which Hazelton, in turn, returned to this witness. If your Honor will recall, the inquiry concerning the Hazelton transaction is reflected in Exhibit 92. Your Honor will recall that Mr. Mainland went in at great length making inquiry about whether Paddleford discussed certain things. This letter purports to be signed by Wake Development Company by one of its directors, Paddleford, and Mr. Mainland in his examination under Exhibit 92 here, went in at great length, not asking about whether a letter of this character had been written, but drawing in his examination, canvassing the substances and the matters contained

in this particular letter, certain alleged conversations that Paddleford had had with Danziger about certain matters, and your Honor will remember there was a great deal of it, and I asked Mr. Mainland whether he told or informed Mr. Danziger that there was any purported letter or forged letter of that fact, and he said no he definitely kept that information from him.

There ought to be a limit as to how far—your Honor has a discretion, I recognize, in a type of case of this kind in admitting evidence, but counsel is attempting now to build up his own straw men and knock them down, he is now going to attempt to take a letter that your Honor has before him now, written by Hazelton, which purports to be a copy of another communication, which, in turn, purports to be signed by this Doctor here, and which manifestly is not the case, and he is going to try and bind us now that such communication was, in fact, sent out; and now he is trying to lay the foundation to introduce this double, double hearsay.

The Court: Do you have the letter that was sent to you? [140]

The Witness: No, I haven't it, your Honor.

The Court: Do you remember who it was signed by?

The Witness: Yes, it was signed by Paddleford.

The Court: How would it happen to be signed by him when all your communications were with Danziger previously?

The Witness: This letter was supposed to be a

letter to assist me in making a particular sale to Mr. Hazelton.

The Court: Do you know what happened to the letter?

The Witness: I suppose it has been lost. I looked all through the papers I had and didn't find it.

The Court: And you did show it to Hazelton?

The Witness: Yes, I did.

The Court: You don't know whether he took a copy of it or not?

The Witness: Yes, he wrote it down——

The Court: Wait a minute. In your presence?

The Witness: Yes.

The Court: And gave you back the original?

The Witness: That is my recollection.

The Court: But you are not sure of it?

Mr. Lucas: The testimony——

Mr. Rose: Pardon me. Your Honor, I refer the court to the record, the testimony of Dr. Hazelton. Hazelton's testimony is that he received that particular letter in the mail and was to mail it back to this witness, and that he did mail it back, and that he wrote that himself. Your Honor, I challenge counsel to establish a scintilla of evidence contrary to the state of the record as reflected by the remarks made by me to your Honor.

The Court: I think under the circumstances, you object to the letter coming in, Mr. Rose, I will let the witness—the original is lost, I will let him summarize what is in it.

Mr. Rose: Here is the situation, your Honor.

This doesn't [141] purport to be a letter by Danziger or the secretary or anybody; it is manifestly a forgery. It is a letter by Paddleford; it is supposed to be one by Paddleford——

The Court: Forgery by whom?

Mr. Rose: I don't know. How can we tell? Manifestly, from the examination of Mr. Danziger—I assure your Honor Danziger would probably have shot this fellow if he had any idea that a fine gentleman like Paddleford's name had been used in this manner. My point is this, your Honor. We are being saddled here by what? This gentleman here produced, when he discreetly desired to produce, the various communications, including envelopes, way back in 1937. Now, it is very convenient for the government, but it violates the fundamental law of the land, to put a man on who is a confessed and recalcitrant defendant in this action, and who has received, manifestly, the benefits by reason of some deal made with the prosecution——

The Court: Mr. Rose feels very strongly about this. I am a stranger in the community, I don't know your names and your personalities, is it necessary to your case to bring in the name of another man here whose name it has been suggested might have been forged? Is it necessary to the government's case to do that?

Mr. Lucas: I don't see how we can avoid it and bring in this particular phase of the record.

The Court: Well, is that necessary to your proof of the Hazelton count? That is my question.

Mr. Lucas: It is part and parcel of the trans-

action. Now, to answer your question and tell you whether it is an essential part of the matter, I just can't say, your Honor.

The Court: You have already proven certain transactions, which if believed by me and not refuted, would support your allegations on the Hazelton count.

Mr. Lucas: I understand that. I want to say I disagree with [142] everything counsel said, mostly, except when I was interrupted I was just about to concur with counsel that Dr. Hazelton's testimony from the stand was different from Mr. Carter's recollection of the deal. Dr. Hazelton testified, as counsel indicated, that Mr. Carter gave him this original letter, showed it to him, and he asked permission from the witness Carter to keep it and retain it sufficiently long to make a copy, and that he did make a copy, and I agree with counsel my recollection of Dr. Hazelton's testimony was that he then thereafter sent the letter by mail to Mr. Carter.

The Court: You claim you got a letter from Danziger saying that——

The Witness: I heard——

The Court: Wait a minute. You claim you got a letter from Danziger saying that he had gotten Dr. Paddleford to sign this letter and was sending that for your use?

The Witness: No, no I don't claim that. I claim I received this letter, such as a piece of sales literature, with the notation to the effect, "You may find this useful."

The Court: There is no other letter that I recall came in here with Dr. Paddleford's signature.

Mr. Lucas: We don't contend that Dr. Paddleford ever wrote that letter or knew the slightest thing about it. I want the record to be clear on that.

The Court: It is too vague. I am going to exclude the letter.

Mr. Rose: That particular letter, you brought it out in some questions of yours of Dr. Hazelton; it was on plain paper, it was not on stationery of the Wake Development Company or anybody else. That is the state of the record. It was on a plain sheet of paper.

The Court: The letter will not come in and I will exclude any testimony about it.

Mr. Lucas: Very well. [143]

Q. By Mr. Lucas: Now, then, to pick up, Mr. Carter—and omitting anything you said to Dr. Hazelton about this so-called letter, or omitting anything about a communication with Mr. Danziger about this letter, proceed with what you stated to Dr. Hazelton after your communications with Wake.

Mr. Rose: Just a minute. I object to the form of the question on the ground that it assumes that the communication was from Wake.

The Court: He may answer.

The Witness: I called Dr. Hazelton on the telephone from New York and told him I was going to visit him because I had a matter I wanted to talk over with him. And in a few days I went down to see Dr.

Hazelton in Mantua, New Jersey, in his office. On the occasion of my visit there I told him that——

Mr. Rose: Just a second. I object to the conversation that this witness is about to relate upon the ground that no proper foundation has been laid, that it is, manifestly, hearsay; the same is not binding or competent on the defendant.

The Court: He may answer.

The Witness: I explained to Dr. Hazelton that the stock of the Trinidad International Petroleum had not gone up as high in price as I had anticipated during the two years or a year and a half interim that I had sold him his previous stock or had been instrumental in getting him to acquire his holdings in the company, but that I had every reason to believe that soon there would be a deal culminated whereby a certain number of shares of stock would be taken up by a syndicate group. I told him that his holdings in the company were not adequate enough to entitle him to participate in that sale, so I told him that I wanted to increase his holdings in the company by an additional thousand shares of stock. He very frankly told me that he could not think of such a thing; that it was beyond his ability to furnish any more funds, and he [144] told me that he didn't have any more securities. He showed me some royalties that he had bought since I sold him the last time, amounting to \$2,500.00, stating that that was the last money he had, and he couldn't put in any money. I then asked him if he couldn't put in a smaller amount, and he reiterated what he said, he just simply was strapped, he had no more

money to put into anything and he couldn't go any further.

At that time I told him that I was contemplating a trip to Los Angeles, and that from Los Angeles I was coming back to New York, and that I was going down to Trinidad to work on this arrangement whereby we were going to dispose of the stock; that I would take care of him in some manner, shape or form, regardless of whether his holdings were large enough to warrant his participation in the syndicate. He said, well, that would be fine, he hoped I would take care of it. And I said, "Of course, the expense of this trip is going to be considerable. It is going to run into a great deal of money, and I would like to have you underwrite a part of that cost." He said, Well, he would try to do what he could. And then I pinned him down and he said, "The most I could advance toward that expense would be \$300.00." Then I told him that wouldn't be sufficient, that the least I could accept would be a thousand dollars. We finally arrived at \$700.00 as the basis, but I would have to wait for the balance of the \$400.00. At that time I agreed that he should be entitled to receive another hundred shares of stock for the money that he would advance toward this expense and, namely, would transfer 100 shares of the stock that he had in my name and was holding for me, in consideration for this money.

He told me he didn't have the money right then and there, and asked me where he could mail it to. I told him he could mail the check out to the Wake Development Company in Los Angeles in care of

A. L. Roberts, and that I would receive it when I arrived out there. Then I left. I wrote to Mr. Danziger and told him he would [145] receive a check, that I had been unsuccessful in getting any more than \$300.00 out of Mr. Hazelton, and explained to him that when the check came through that he could either cash it or re-forward it to me and I would cash it.

I received a letter back from him——

Mr. Rose: Just a moment. I move that the declarations of this witness as they purport and relate to a letter he said he wrote to Danziger be stricken on the grounds, severally, that it is not the best evidence, calls for a conclusion, conjecture, speculation on the part of this witness.

The Court: Motion denied.

Mr. Rose: May an exception be noted?

The Court: Exception.

The Witness (Continuing): I later received a letter from Los Angeles stating they had received the check for \$300.00 and had put the check in for collection, and after the check had cleared they would send me the usual \$200.00, less wiring charges.

Q. By Mr. Lucas: Did you receive it?

A. I later did receive the money, yes.

Q. Mr. Carter, I show you a letter, Government's Exhibit No. 34, in evidence, and ask you to look at the signature and tell me if you wrote and signed it and sent it to Dr. Hazelton?

Mr. Rose: Is that an exhibit in the case?

Mr. Lucas: It is; Exhibit No. 34, counsel.

The Witness: Yes, this is my letter. [146]

ASSIGNMENT OF ERROR No. 25

The Court erred in overruling the objection on behalf of the defendants to the admission of the following testimony on the part of the witness W. E. Warren (Carter):

Q. By Mr. Lucas: From whom did you receive these various money orders?

Mr. Rose: I object to that as calling for a conclusion and opinion of the witness.

Q. By Mr. Lucas: Do you know who sent those to you?

A. Will you let me look at them?

Q. Yes. Just the first six, I believe is all I called your attention to.

The Court: The question is do you know who sent them to you?

The Witness: Offhand, I don't.

Q. By Mr. Lucas: I call your attention to the first six of these post office money orders, again; they bear date——

Mr. Rose: Now, I object to that, because the witness has clearly indicated that he has no knowledge of these particular exhibits, after examining them, and I am objecting to your leading or suggesting any matter to a, manifestly, hostile witness.

Mr. Lucas: I hadn't completed my question, if the court please. May I complete my question?

The Court: You may.

Q. By Mr. Lucas: I call your attention to the fact that each of these photostatic copies of money orders are dated December 26, 1940, and each of

them bear the typed name "Mary D. Briggs, Postmaster" in each instance; does that refresh your recollection as to whom you received these from?

A. Yes——

Mr. Rose: Just a moment. I object to that as leading and suggestive, argumentative and, menifestly, not the form of a [147] document from which this witness can refresh his recollection as to the source or the person that assertedly sent them to him.

The Court: Did you get money orders from Los Angeles at that time?

The Witness: Yes, I did.

The Court: Did you get them from more than——

The Witness: I received them from——

The Court: Wait a minute. Did you get them from more than one source?

The Witness: No, I did not.

The Court: Do you know the source from which you received money orders from Los Angeles at that time?

The Witness: Yes, I do, your Honor.

The Court: State what it was.

Mr. Rose: Just a moment. May I reincorporate my objection to the question as applicable to the supplemental question augmented by the court's inquiry?

The Court: The objection is overruled.

Mr. Rose: May an exception be noted?

The Court: Exception is allowed.

What source did you get the money orders from?

The Witness: I received these from J. M. Dan-

ziger. And to the best of my recollection, the senders at the time I received them were noted as "Levy," if my memory is correct.

Mr. Rose: I object to that, your Honor, on the ground——

The Court: How would you know that?

The Witness: When you receive these certificates, they usually I think they usually make the notation on it who the sender is, if my recollection is correct.

ASSIGNMENT OF ERROR No. 26

The Court erred in overruling the objection on behalf of the defendants to the admission of the following testimony on the part of the witness W. E. Warren (Carter): [148]

The Witness: I also remember that I received \$530.00 from the Wake Development Company through one of the various names that was used to send me money about this time from Los Angeles, and I never received any money from any other source from California other than that; so, therefore, it must be from that source.

Mr. Rose: I move that his answer be stricken; that it is a conclusion based on conjecture, speculation, no proper foundation laid, and I call your Honor's attention to the fact that without equivocation this witness gave a definite and unqualified response to a direct examination.

The Court: The part of his answer that he received money only from one source in California may stand. The rest is stricken.

Q. By Mr. Lucas: On the face of this document, opposite the word "From" there is typed in the word "A. Levy;" can you tell me from whom you received that money?

Mr. Rose: I object to it as calling for a conclusion and opinion of the witness.

The Court: He may answer.

The Witness: Yes, I received that from Mr. Danziger.

Mr. Rose: I move that be stricken as a conclusion of the witness.

The Court: Denied.

Mr. Rose: May an exception be noted?

The Court: Allowed.

Q. By Mr. Lucas: I show you Government's Exhibit 18 in evidence, and call your attention to a photostatic signature on the back and ask you if that is your signature?

A. It is.

Q. Did you receive the money? A. I did.

Q. That is represented by the Western Union money order? A. That's right, I did. [149]

Q. And from whom did you receive it?

A. Mr. Danziger.

Mr. Rose: I move that the answer be stricken for the purpose of inserting an objection.

The Court: Well, it is stricken. Make your objection, Mr. Rose.

Mr. Rose: I object to it on the ground that it calls for a conclusion and opinion of the witness. No proper foundation laid.

The Court: The objection is overruled.

Mr. Rose: May an exception be noted?

The Court: Exception noted. What was your answer?

Q. By Mr. Lucas: From whom did you receive it?

A. Mr. Danziger.

ASSIGNMENT OF ERROR No. 27

The Court erred in overruling the objection on behalf of the defendants to the admission of the following testimony on the part of the witness W. E. Warren (Carter):

Q. By Mr. Lucas: Did you receive the money represented by the original Western Union money order?

A. Yes, I did.

Q. And from whom did you receive it?

Mr. Rose: Just a moment. I object to it as calling for a conclusion of the witness, no proper foundation laid.

May I take this witness, incidentally, at this point on voir dire as to this limited subject matter?

The Court: No, I don't think so. Objection is overruled.

Mr. Rose: May an exception be noted?

The Court: Exception is allowed.

The Witness: I received that from Mr. Danziger.

ASSIGNMENT OF ERROR NO. 28

The Court erred in overruling the objections and in denying the motion of defendants to strike the

following testimony of the witness W. E. Warren (Carter):

Q. By Mr. Lucas: Mr. Carter, do you remember a man by the name of Harold McCoy?

A. Yes, I do.

Q. Did you ever see him before you saw him in the court room in the trial of this case?

A. Yes, I did.

Q. Do you recall approximately where and when?

A. Yes, I saw him in Cadiz, Ohio.

Q. Can you tell me approximately the time?

A. I think it was in 1938.

Q. Did you have any conversation with him?

A. Yes, I did.

Q. What was the conversation concerning, what was the subject matter of it?

Mr. Rose: Just a moment. Are you asking him for the conversation or are you asking him for his conclusion as to what the subject matter was?

Mr. Lucas: The reporter will please read the question.

The Court: No, don't read it.

Mr. Rose: I object to it on the ground that no proper foundation has been laid, and it calls for hearsay, and it is incompetent and not binding on the defendants on trial.

The Court: Overruled.

The Witness: I called at Mr. McCoy's house and had a conversation with him. I asked him if he owned any Trinidad stock and notes. I told him that my name was A. L. Baker, that I repre-

sented a stockholders protective committee for the Great Eastern Natural Gas stockholders. Then he told me no, he didn't own any Trinidad stock or notes, and wanted to know why I asked him that; and I told [151] him that there had been a group of stockholders that had never had the right to exchange their stock for the Trinidad Petroleum stock and notes that had formed a committee, and I represented a committee. The purpose of the committee was to see that those stockholders who had not had the opportunity to exchange their Great Eastern Natural Gas stock did get that opportunity. I asked him then if he hadn't received some literature back several years previously about the exchange. He said, yes, he remembered something about that, but that he just figured it was one of those kind of things that they wanted more money out of, and he didn't answer it for that reason, or he didn't pay any attention to it. And I told him, well, I asked him if he knew that the stock had considerable value at that time, and he said no he didn't know that, "How much was it worth?" I told him the stock was worth about five or six dollars a share and the notes were worth about five or six dollars a share.

Q. By Mr. Lucas: What stock were you speaking of?

Mr. Rose: Just a minute.

The Witness: Trinidad International Petroleum.

Mr. Rose: Your Honor, there ought to be an end to this constant suggestion here. We are meeting some conversations that we obviously are not

present, and counsel suggests was there anything said about this. I think he ought to stop leading the witness.

The Court: That was a pretty fair question. He asked him what stock he was speaking of.

Mr. Rose: He seems to have an amazing memory about conversations, and I thought he would tell us——

The Court: If you are objecting to the witness' memory, that is one thing; but if you are objecting to the form of the question that Mr. Lucas asked, I think that form is very correct.

Mr. Rose: I am sorry.

The Witness: We were talking about the Trinidad International Petroleum stock and notes. I asked him how many shares of stock he had in the Great Eastern Natural Gas Company, and he told [152] me he had had 2700 shares—I think he told me at that time he had a lesser amount, around 2600 shares of stock in the Great Eastern Natural Gas Company, and he asked me what procedure we were going through, and I told him, "Well, if you would like to exchange your stock and you signify your interest by giving me ten cents a share deposit on your stock, I will go ahead and list your claim with the Wake Development Company in California, and see that some action is taken on the matter, then you may get a right to subscribe on the old original basis, which was \$3.00 payment in cash and a credit of \$2.00 for every share of your Great Eastern Natural Gas stock."

So he said, "Well, let me look that up and see

what it amounts to, I want to make sure about it.”

And he looked it up and he found he had 2750 shares of stock. So he made out a check to the man who I said was chairman of the committee, A. B. Winslow, made out a check for \$275.00 and gave me the check, and then I told him that he was to write a letter off right away to Los Angeles. I suggested the form of letter that he write, telling him that he demanded his right, and I told him we would also intercede in his behalf and see what we could do, too, to supplement his request. Then I told him I would communicate with him later, and I left him at that time, and I returned to Philadelphia from Cadiz, Ohio. I communicated the information to Los Angeles, to Wake Development Company, told them that I had a chance of making a good sized sale of the stock, of the Trinidad stock and notes, and exchange it for the Great Eastern Gas stock that Mr. McCoy had.

Mr. Rose: I move that be stricken on the ground it is not the best evidence, and is a conclusion and opinion of the witness.

The Court: Denied.

Mr. Rose: May an exception be noted?

The Court: Allowed.

The Witness: I told them to advise me as soon as they received any word. I later received word that a letter from the [153] Wake Development Company, in which they gave—

Mr. Rose: Just a second. I object to that on the ground it is a conclusion of the witness and not the best evidence.

The Court: Do you have the letter now?

The Witness: No, I don't have the letter in my possession. I did have, but a lot of letters have gone astray, and I just don't have them all.

The Court: Did you have the letter, Mr. Lucas?

Mr. Lucas: No. I checked with Mr. Mainland and we do not have it, your Honor.

The Court: Continue.

The Witness: I received a copy of the letter that he wrote in to the Wake Development Company, and a copy of the letter which they replied back to him. Later I was instrumental in sending down to Mr. McCoy another salesman by the name of O'Brien, who I knew in Philadelphia, and O'Brien and I decided that he would go down——

Mr. Rose: Just a moment. I object to that as hearsay and a conclusion of the witness.

The Court: I think he better confine himself to the fact.

Mr. Lucas: We feel it is a part of the scheme, your Honor, that is set forth in the indictment. It is covered, we feel, sufficiently, by the allegations of the indictment.

Mr. Rose: Your Honor, I know what counsel has in his mind, and I have heard it frequently. The point is that I take the position that these conversations are incompetent even coming from the witness that we have a right to cross examine, but I don't know any authority on the subject of evidence that has ever contended that this man, who knows somebody in Philadelphia named O'Brien can relate a conversation he had with O'Brien.

The Court: Well, he sent O'Brien down, he said.

Mr. Lucas: That is as far as the witness went.

The Witness: I then called Mr. McCoy on the telephone from [154] Philadelphia and I told him I was sending—I told Mr. McCoy——

Mr. Rose: Just a second. This is a subsequent conversation, manifestly. I will have to interpose my objection, your Honor, to this conversation that the witness is about to relate on the ground that no proper foundation has been laid, it is hearsay, it is incompetent and not binding on the defendants.

The Court: What was McCoy's recollection of all this?

Mr. Lucas: He has testified as to the second man coming there and all of that. It all came out from Mr. McCoy, and this is merely corroboration of the evidence of McCoy.

The Court: Continue.

The Witness: I told Mr. McCoy——

Mr. Rose: Your Honor has overruled the objection?

The Court: Yes.

Mr. Rose: May an exception be noted?

The Court: Exception.

The Witness: I told Mr. McCoy over the telephone that I was sending a Mr. Dawson down to see him, who was also connected with the deal; and I told him that Mr. Dawson had full powers to act, and that I couldn't return right then, but to be guided according to Mr. Dawson's instructions.

Q. By Mr. Lucas: Was the deal completed

between the Wake Development Company and McCoy?

A. There was a deal completed. There was a 700 share sale of stock made as a result of Mr. Dawson's call.

Mr. Rose: Just a minute. I move that that be stricken as a conclusion and opinion of the witness.

The Court: It may stand.

Mr. Rose: May an exception be noted?

The Court: Exception. [155]

ASSIGNMENT OF ERROR NO. 29

The Court erred in overruling the objections and in denying the motion of the defendants to strike the following testimony of the witness W. E. Warren (Carter):

Q. By Mr. Lucas: I show you, Mr. Carter, what has heretofore been offered in evidence as the Government's Exhibit 96, for identification——
* * * *

Q. By Mr. Lucas: ——and I will ask you if you have ever seen the document before?

A. I have.

Q. And when did you first see it, to the best of your recollection?

A. To the best of my recollection it was in the latter part of June, 1944.

Q. From whom did you receive it?

A. Mr. Danziger.

Q. Do you recall where you were when you received it?

A. That was mailed to my mother's address.

Mr. Rose: Just a moment.

The Witness: That was mailed to my mother's address.

Mr. Rose: I move that be stricken as a conclusion of the witness and not the best evidence.

The Court: Denied.

Mr. Rose: May an exception be allowed?

The Court: Exception.

ASSIGNMENT OF ERROR NO. 30

The Court erred in overruling the objection on behalf of the defendants to the admission of the following testimony on the part of the witness W. E. Warren (Carter):

Q. By Mr. Lucas: I call your attention to the envelope which is attached to the exhibit, and call your attention to the [156] fact that the address has been torn out, at least the greater portion thereof, only one or two letters remaining, and ask you if you can tell me whether or not you know anything about the tearing out of the address on the envelope.

Mr. Rose: Find out what is supposed to have been in there.

The Witness: I can't tell what the address was; but this is the envelope it was received in.

Mr. Rose: He has got an unintelligible answer. What was received in it.

The Witness: The contents, the exhibits here.

Mr. Rose: Very well.

Mr. Lucas: I am not through with it yet, please.

The Witness: May I look at that again?

This envelope was received at 178 Willis Avenue, New York City, addressed to Mrs. Hattie Warren.

Mr. Rose: I move that be stricken, your Honor, as not responsive to any question, and a conclusion of the witness.

The Court: Denied.

Mr. Lucas: I now offer the entire document in evidence, including the envelope, and ask that it carry the number in evidence which it now has for identification.

Mr. Rose: To which objection is made upon the following grounds, severally, and respectively: One, that there is no proper foundation laid. Now, the foundation laid for its offer is that the contents which are now stapled to said envelope were the contents received in that envelope. The envelope has an obliterated address without any indication of the addressee of said envelope. The envelope on its face shows it was dated December 5, the top letter that your Honor is examining, the first one, is dated Tuesday the 6th, without any year, and the court takes judicial notice of the fact that there was no such thing as Tuesday the 6th of December in that year, and necessarily such communication couldn't possibly be enclosed in an envelope mailed the day previously; and the other [157] two copies, with the obliterated addresses are not related dates and, therefore, they are, for the reasons stated here, incompetent and inadmissible.

Mr. Lucas: I would like to be heard, if the court please.

I would like to have the exhibit before I can speak, your Honor.

(The exhibit was handed to Mr. Lucas.)

Mr. Lucas: First, with respect to the document "Tuesday the 6th", I call your Honor's attention to the fact that counsel omitted to call your Honor's attention to the fact that, namely, there is not only no year mentioned there, but there is no month; so it could be Tuesday the 6th, assuming that the writer thereof wrote it correctly as to the day of the week and the date of the month, and it could be any month preceding the month of December of any years. Second, that the second sheet is dated December 4th, 1939, the third sheet is November 4th, 1939, one month previously, the envelope which the witness identified as being addressed to his mother some place in New York bears a date December 5th, a subsequent date to any date that is on the previous pages for the month of December, and therefore very logically the envelope could have contained, as stated by the witness, the enclosures.

Therefore, this exhibit could have logically and clearly have been received by him and could have contained the contents thereof.

Mr. Rose: I don't want to take up the time of your Honor arguing suppositions and so forth. There has been no testimony whatever on the part of this witness about these two subjects here with

the obliterated address. The purported addressees of these two letters of November 4, 1939, and December 4, 1939, are persons concerning whom not a word has been uttered by this witness. That is why I had in mind, in addition to the other objections, the grounds therefor, that they are immaterial in addition to the other objections and no foundation has been laid. [158]

The point is that we have a typewritten thing that may well have been typed onto the penciled memorandum, with no relationship to any particular transaction, and there is no year to identify as to where this thing was allegedly typed, nor by whom. As I pointed out to your Honor, we can speculate and resort to conjecture to an unlimited degree, but there are no foundational facts here to tie in this Tuesday the 6th thing with anything, and the witness now has testified that for some reason he received it in an envelope, obliterated, on a date. If he says it may have been any year, of course it may have similarly—it may be something that has been copied by this witness or some confederate of his or anything else.

The Court: What count does this refer to?

Mr. Lucas: This refers to no particular count, but I do want to point out to the court, perhaps we have all overlooked it, and I should have called it to the attention of the court sooner, that the first sheet of this, to-wit, that bearing the legend "Tuesday the 6th" was identified by the expert as having been written on the same typewriter as this here, Exhibit 96, and the witness said of both

of these, that they were typed on the same typewriter, and, further, that they were typed on the same typewriter as that used in Exhibits 70 and 85, the same being letters——

The Court: That is enough talk about this. The exhibit is admitted.

Mr. Rose: May an exception be noted?

The Court: Exception allowed.

The Clerk: 95 for identification is in evidence.

ASSIGNMENT OF ERROR NO. 31

The Court erred in overruling the objection on behalf of the defendants to the admission of the following testimony on the part of the witness W. E. Warren (Carter): [159]

Q. By Mr. Lucas: Was this arrangement between you and Mr. Danziger and the Wake Development Company with respect to exchanging correspondence containing the original letters from persons or copies thereof ever changed from the beginning until your operations ceased?

Mr. Rose: I object to it as leading and suggestive, calling for a conclusion and opinion of the witness, no proper foundational facts being present.

The Court: He may answer.

Mr. Rose: May an exception be noted?

The Court: Allowed.

The Witness: It was in continuous operation until I ceased selling the stock or working on the deal.

ASSIGNMENT OF ERROR NO. 32

The Court erred in overruling the objection on behalf of the defendants to the admission of the following testimony on the part of the witness W. E. Warren (Carter):

Q. By Mr. Lucas: I show you, Mr. Carter, after having first shown to counsel, two sheets of paper stapled together, the first one a yellow second sheet under date of October 20, 1939, the second a white second sheet under date of October 25, 1939; I ask you to examine them and tell me whether you have ever seen them before.

A. Yes, I have.

Q. From whom did you receive them?

Mr. Rose: I object to that as calling for a conclusion and opinion of the witness, no proper foundation laid. I have in mind, your Honor, that if he received it in the mail that should be indicated. The inference here is—he has altered his modus operandi here from the inception of his testimony to subsequently by volunteering “Mr. Danziger”. At one time he was talking about Wake Development Company. Now, if he received that we ought to know, [160] first, whether he received it in the mail or whether he received it from some individual; then I could submit an objection that would have some substance to it, because it will be clear what the objection is directed to. He keeps asking from whom did you receive it. If he got it in the mail, there is no way in the world of this man knowing who dropped it in the mail.

The Court: Did you get it in the mail?

The Witness: Yes, I did.

The Court: Now, your next question.

Q. By Mr. Lucas: Now, Mr. Carter, I direct your attention to the second sheet——

The Court: Your question is unanswered. He said he got it in the mail. Your question of from whom he received it is unanswered.

Mr. Lucas: Thank you, your Honor.

Q. By Mr. Lucas: From whom did you receive it, Mr. Carter?

Mr. Rose: I object to that as calling for a conclusion and opinion of the witness, no proper foundation laid.

The Court: He may answer.

Mr. Rose: May an exception be noted?

The Court: Exception allowed.

ASSIGNMENT OF ERROR NO. 33

The Court erred over objection and exception of defendants' counsel in permitting the witness J. Arthur Hazelton to relate his purported conversations with W. E. Warren (Carter) or his confederates, admittedly made without the knowledge or presence of any of the defendants, their agents, representatives or officers, and more especially hearsay as to matters admittedly on the whole record never sanctioned or authorized by any of the defendants on trial. [161]

ASSIGNMENT OF ERROR NO. 34

The Court erred over objection and exception of defendants' counsel in permitting the witness Adeline B. Skinner to relate her purported conversations with W. E. Warren (Carter) or his confederates, admittedly made without the knowledge or presence of any of the defendants, their agents, representatives or officers, and more especially hearsay as to matters admittedly on the whole record never sanctioned or authorized by any of the defendants on trial.

ASSIGNMENT OF ERROR NO. 35

The Court erred over objection and exception of defendants' counsel in permitting the witness Harold J. McCoy to relate his purported conversations with W. E. Warren (Carter) or his confederates, admittedly made without the knowledge or presence of any of the defendants, their agents, representatives or officers, and more especially hearsay as to matters admittedly on the whole record never sanctioned or authorized by any of the defendants on trial.

By reason of said errors and other manifest errors appearing in the record herein, the defendants pray that the judgments of conviction be set aside and annulled.

Dated, Los Angeles, California, May 10, 1945.

A. BRIGHAM ROSE

Attorney for Defendants.

In the District Court of the United States in and
for the Southern District of California, Central Division

Before the Honorable Claude McColloch.

No. 15173—Criminal

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JACOB MORRIS DANZIGER, et al.,

Defendants.

REPORTER'S TRANSCRIPT OF
PROCEEDINGS

Los Angeles, California

January 16, 1945

Appearances for the Plaintiff: Charles H. Carr, Esq., United States Attorney; by V. P. Lucas, Esq., Assistant United States Attorney. For the Defendants: Jacob Morris Danziger, Trinidad International Petroleum, Limited, and Wake Development Company, A. Brigham Rose, Esq., 205 South Broadway, Los Angeles, California. For the Defendant: Warren C. Carter, Ames Peterson, Esq., 639 South Spring Street, Los Angeles, California. [1*]

* Page numbering appearing at foot of page of original Reporter's Transcript.

Los Angeles, California,

Tuesday, January 16, 1945, 10 A. M.

The Clerk: No. 15173, criminal, United States of America vs. Jacob Morris Danziger, et al. Arraignment and plea of Trinidad International Petroleum, Limited, and Wake Development Company. For trial.

Mr. Lucas: The government is ready, if your Honor please.

Mr. Rose: I have no authority or any knowledge of the attempt to arraign any corporate defendants here.

Mr. Lucas: If the court please, the citation and the summons has been issued and served, and the marshal's return thereon made, though I understand from the clerk it is not yet in the file.

The corporate defendants are Wake Development Company and the Trinidad International Petroleum, Limited. Mr. Danziger, one of the defendants, is present in court, and as your Honor knows, the matter of having a corporate defendant is somewhat ethereal, but they have been served, and their presence by an officer of the two corporations should be noted. I want to state that for the record, that I am fully advised and verily believe that Mr. Danziger is still an officer and a director in each of the corporations.

Mr. Rose: That is pure assumption, your Honor, on opposing counsel's part. There is no showing before the court, and I question whether Danziger was even served with [2] any such document.

The Clerk: The marshal is sending the returns down. I didn't find them in the file, and I called him and they are sending the returns down now.

Mr. Rose: I want the record to clearly indicate so far as my client is concerned—counsel is addressing the court—we are not advised or authorized to enter any appearance on behalf of the corporate entities indicated. Without obligating myself, in connection with the matter of the identification of the corporate defendants in connection with the charges contained in this indictment, I submit that a corporate entity is subject to indictment the same as a person, and so far as I know the responsibility for the corporate acts are one thing, and the responsibility for an individual's act is a separate and other responsibility.

Mr. Lucas: If the court please, I quite agree with counsel that corporations are subject to indictment, and we have here only the question of their appearance before the court. Prosecution of corporations are provided for under Section 347 of Title 28, the leading case on the subject being *Albrecht vs. United States* in 273 U. S. at page 1, and the records of this court will show that an application for a citation and summons has been made, an order directing the service of the citation has been been, and as the clerk presently informs us the return will be here. If there is any question about the authority of Mr. Danziger with those [3] corporations, I suggest that the matter can be very quickly determined by the taking of

some testimony and finding it out, so that we can proceed.

Mr. Rose: Have I the permission of your Honor to address the court on the subject of the situation with respect to my client this morning.

The Court: Yes.

Mr. Rose: I have caused to be served on opposing counsel a copy of an affidavit subscribed to yesterday evening, and I have caused to be handed to the clerk of this department an original and a copy, pursuant to the rules. May I inquire whether your Honor has seen it.

The Court: I read it, Mr. Rose.

Mr. Rose: Out of an abundance of caution, I checked with my office this morning to ascertain whether anything in this morning's mail had arrived to bring this matter right up to the moment, and there is no advice as yet from the Ninth Circuit Court in connection with the pending application for an alternative writ of either mandamus or prohibition directed against the proposed proceedings herein. That is, we have received this morning's mail, but there is nothing from the Ninth Circuit.

I desire to inform your Honor that Mr. O'Brien, the clerk of the court, in the past few days informed me in a note that he expected some action to be taken on that matter very shortly. But what action up to this minute has been [4] taken is not known to me, your Honor.

The Court: What other preliminaries are to be disposed of at this time?

Mr. Lucas: The matter of the signing of waiver of the jury, and the matter of the notice of the appearance of the two companies, and that is all of a preliminary nature. The matter of waiver of jury can go until a decision has been made on counsel's application for a continuance. I take it that is the purpose of the affidavit that has just been served on us here.

The Court: Here is the difficulty about a jury waiver. Even though I should direct a plea of not guilty, which is within my power, to be entered for the corporations, there would be no one here representing them or asserting the right to represent them. I don't see how a jury waiver can be made on their part.

Mr. Lucas: Very well, then we can proceed to trial with a jury. No objections whatever.

The Court: I don't see any escape from that. In considering this case preliminarily, my thought was to direct pleas of not guilty be entered for the corporations, and to ask Mr. Rose, as an attorney for the court, because he is in the court in another capacity, to appear in the case as attorney for the corporations. I thought that was within the proprieties. But Mr. Rose has indicated that he has no authority, or feels he has no authority to appear for the [5] corporations. I wouldn't ask him to waive a jury for them, so long as they remain defendants in the case. I don't think it would be within the proprieties for him to waive a jury for them if he is not appearing for them.

Mr. Lucas: I can understand your Honor's view in that matter.

Mr. Rose: I believe, your Honor, unless these advices have come to you in my absence, that I should indicate to the court what occurred in Judge McCormick's court after your Honor, at the time of the Saturday morning session, directed us to appear in Judge McCormick's court. His Honor took the position that your reference of this matter to his department was apparently one of deference by a visiting judge to a senior judge here, and indicated that so far as his Honor was concerned this matter has been transferred to your Honor, and that you are part of the court here, and that all matters were to be passed on by your Honor without regard to the feeling on your Honor's part that Judge McCormick should pass on matters of continuances and so forth. I don't know whether that information was conveyed to your Honor or not.

The Court: My position would involve this difficulty for me were the situation you present to arise in my own district. My disposition, and I think it will be my ruling—I state it only provisionally now—my disposition is to proceed with the trial of this case, with considerable [6] doubt, however, as to the effect on the defendants' position, in view of a very recent arraignment of them, and in view of the representations made by affidavit as to the residence of necessary witnesses, the distance from here, and the type of information that he would expect to elicit from them. In my own district my

approach would not involve the difficulty that it does for me here. Judge McCormick having set the case for trial originally, and you having gone before him a second time, I am disposed to go ahead with the trial of the cases, reserving for final determination, as the case unfolds, the effect on the defendant's position, whether he has been unduly prejudiced or not under the circumstances that have been tentatively laid before me.

I am not ruling at this moment, but that is my present feeling. You might let me see the returns that have just come in.

Mr. Lucas: Yes. The marshal that made the returns is present in the court room, your Honor.

The Court: Mr. Rose, would you like to inspect them?

Mr. Rose: Yes, your Honor.

(The documents were handed to Mr. Rose.)

Mr. Rose: My offhand impression, your Honor, is that the marshal has resorted to the practice in civil proceedings of leaving a copy of the document with the secretary in a lawyer's office. I want your Honor to know, as I indicated to opposing counsel, if we were required to go to [7] trial everybody would fare better by having the case, of the complexities involved herein, tried by your Honor without a jury. I recognize the power of this court to appoint me to appear on behalf of any defendant to the charge. The only point I have in mind now, your Honor, is that I would like to give the subject some study as to whether I may, seemingly, be placed in the position of representing

adverse interests in this matter. In other words, while I hazard a guess if we were to proceed with the evidence here certain evidence would be presented as against respective defendants and, likewise, against the respective corporate entities, I was wondering in my mind, having had no opportunity to give that any thought, whether it is likely that might present a conflict or whether I could not—if we are obliged to proceed—in order to expedite this trial, arrange for an authorized appearance on the part of the corporations. I haven't given that any thought at all, your Honor, and your Honor no doubt recognizes the thing that I have in mind at the moment without having given it any study.

The Court: Do you want to take until 2 o'clock?

Mr. Rose: I think it might be advisable, your Honor.

The Court: Do you have any objection to that?

Mr. Lucas: I don't have any objection to that if the court thinks that is a reasonable time.

Mr. Rose: In the meantime, your Honor, I will endeavor to find out from the North whether any action has been taken [8] on the application in the Circuit Court.

The Court: I am quite sure I shall ask you to go to trial, Mr. Rose, with the mental reservation I stated, should it develop at this trial that the interests of your client have been seriously affected by the recent arraignment, and time was not thus allowed for taking important testimony, important to your defense, by deposition, and the

other things that are necessary to show diligence and the like under the authorities. It seems to me only the trial could develop that. It is the kind of a thing that can't be passed on in advance.

Mr. Rose: Well, your Honor will note that from the incident that presents itself to the court this morning. For example, this belated endeavor to arraign corporate defendants in this haphazard manner is another indication of the fact that the years have rolled by without any indication, even, so far as arraigning two defendants about whom the majority of the indictment——

The Court: I don't think there is anything to be gained by further discussion of it.

Mr. Rose: Very well.

The Court: I have said all I feel I should say at this time.

Mr. Lucas: Will your Honor instruct the witnesses to return if we adjourn?

The Court: The witnesses will return at 2 o'clock. [9] The defendants now in custody will remain in custody, and the defendants now on bail will remain on bail. Case continued until 2 o'clock.

(Whereupon, at 10:30 a. m., an adjournment was taken until 2 o'clock p. m. of the same day.) [10]

Los Angeles, California,

Tuesday, January 16, 1945, 2:00 P. M.

The Clerk: 15173, United States vs. Jacob Morris Danziger, et al.

Mr. Lucas: Ready, your Honor.

Mr. Rose: It is my duty to inform your Honor that during the noon recess I have made inquiry from the Ninth Circuit Court, and from the information I have it appears that there is not pending any writ proceedings at this time, that is, since 1 o'clock; so aside from that factor, which is one of the declarations contained in the affidavit in support of objection to proceed to trial, I submit for ruling to this honorable court the various grounds set forth in the affidavit which has been presented to your Honor this morning, eliminating by the oral advices now given the subject of the pending matter in the Ninth Circuit Court.

The Court: The trial will proceed. Objections are overruled and exceptions allowed.

Mr. Lucas: Your Honor, I understand there was ordered this morning—or was it only tentative?—the matter of noting the appearance for the Wake Development Company and the Trinidad International Petroleum, and entrance of a plea for those two corporations. I think we should dispose of that matter before we proceed further.

The Court: Are you disposed to object to my appointing you to represent them? [11]

Mr. Rose: Your Honor, in the absence of knowing what the evidence may be with respect to the

separate defendants here, I would be inclined to think it my duty to object to my appointment to represent the defendants, with the possibility of their interests being conflicting in connection with these proceedings.

The Court: Mr. Rose, I will appoint you to act as attorney for the corporate defendants, subject to developments at the trial that may cause you to feel that your interest has become adverse.

Mr. Rose: Your Honor will note an objection to the appointment. I respectfully accept the order at the direction of the court.

The Court: Objections are noted and exception allowed.

Mr. Lucas: May we have the formality of the clerk entering the plea of not guilty as to those two corporations?

The Court: The court directs pleas of not guilty be entered for the corporate defendants.

Mr. Lucas: Then, as to the matter of Warren C. Carter, of course, this matter is not on trial as to him, he having heretofore pleaded, but I suggest that the matter of remaining counts as to him go over until the conclusion of the trial. There are 16 remaining counts against that defendant. I suggest that the matter of those counts go over until the conclusion of this trial, and that the matter of sentence also go over. [12]

Mr. Peterson: As representing Mr. Carter, I join in the suggestion and motion of counsel for the government.

The Court: Mr. Lucas, your suggestion is that

the trial proceed only as to the defendant Danziger and the corporate defendants?

Mr. Lucas: That's right. I don't think the defendant Carter actually and technically is on trial.

The Court: He has pleaded guilty as to one count?

Mr. Lucas: Yes; and it is the intention of the government to dispose of those matters other than by trial, at the present moment.

The Court: That amounts to the government asking for separate trials?

Mr. Lucas: No, it doesn't ask for a severance at all. It is just merely an indication on the part of the government at this time.

The Court: Suppose this trial proceeded along the lines you have suggested, and at the conclusion of the trial either you acted or I felt, within the range of my discretion, that the trial should proceed as to the defendant Carter as to counts other than the one on which he has pleaded guilty?

Mr. Lucas: Then, as to that matter, your Honor, it would be the disposition of the government to dismiss those counts. I will say quite frankly that is our intention at the conclusion of this trial, subject to situations that [13] might develop in the course of the trial, to dismiss those remaining counts against the defendant Carter. So, actually he having pleaded to count 17, it is not our intention to put him on trial as to the remaining counts. I wanted that clearly understood by the court and by Mr. Carter and his counsel.

Mr. Rose: I would be inclined to note for the

record that we strenuously object to this form of procedure. In the first place, opposing counsel has no locus standi to move the dismissal of the charge. We find ourselves in the dilemma to which we have diverted so frequently here by reason of the contention made, which, of course, is always good, that a co-defendant was incarcerated in jail and unable to make bond, and it is under that——

The Court: Mr. Rose, I will cut the matter short. I don't want to complicate it the way you are suggesting. The trial will proceed as to all defendants, as to all counts on which the pleas of not guilty have been ordered or directed.

Mr. Lucas: May I confer with counsel?

If your Honor please, at this time, in view of what your Honor has already said, I now move the dismissal of Counts 1 to 16 as against the defendant Warren C. Carter.

Mr. Rose: We resist the motion on the following grounds, your Honor. Firstly, that any such act on the part of this honorable court would attempt to change the status of the co-defendants, in so far as the fact that they are co-defendants, [14] and that the certain testimony that may be given may be binding on one or the other parties; and, furthermore, on the ground that it would change our position, that if a co-defendant seeks to charge us by certain testimony on his part he would lose his status as an accomplice, if such were to be developed in the case. The indictment specifically charges us jointly with certain particular acts, and they seek to bind us by the acts and conduct in

distant places, where the reading of the indictment clearly confesses that my client was not present or a party to this transaction, and for your Honor to grant this motion would certainly jeopardize our position. I feel that the co-defendant who seeks to enter a plea to one of 17 counts may be deemed to be looking for some favors and privileges, and to have the court remove the overhanging threat of a possible conviction as to that particular defendant a mere matter of 16 counts, certainly would change his status and disposition to testify in this case. I think it would be unfair, and we resist it on the grounds stated severally.

The Court: Mr. Rose, is it your position that you oppose the government's first proposition, that the trial should be deferred as to the defendant Carter?

Mr. Rose: Yes, your Honor, because I feel that he should be bound by his own testimony, being a party defendant in all these proceedings, while my client is in jeopardy. In this proceeding I now have three of them who apparently [15] are sought to be bound by his acts.

The Court: Mr. Rose, I understand that when the prosecution orders dismissal of a criminal matter, with rare exceptions, under the federal rules it is entirely in the hands of the Attorney General.

Mr. Rose: That is correct. That is why I say counsel has no locus standi. It is my understanding that the Attorney General has not suggested that these 16 counts be dismissed.

The Court: Do you have that authority or can you get it?

Mr. Lucas: Yes, I have authority to proceed or I wouldn't proceed.

The Court: I would assume so. The motion is allowed and exceptions are noted, Mr. Rose.

Mr. Lucas: I think we should at this time, if we are going to proceed without the jury, have the waiver of the jury properly signed by all concerned, if the court please.

The Court: Let me make it plain it makes no difference to me whether the trial is with or without a jury.

Mr. Lucas: I think counsel wanted to proceed without a jury. I am perfectly willing to proceed without a jury, and it is entirely up to the defendant. I want to get the government on record in that regard.

Mr. Rose: I made it clear, your Honor, we have agreed to try this case, if we are obliged to try it, without a jury. I don't think I want to supplement that by repeating [16] what I have said before.

Mr. Lucas: You used the word "obliged," Mr. Rose.

Mr. Rose: I have already gone on record as waiving trial by jury.

Mr. Lucas: I think the local rules here, or perhaps the statute itself, your Honor, requires a written waiver.

The Clerk: As to the three defendants?

Mr. Lucas: Yes.

The Court: Let it be signed, if it is the intention of all counsel to proceed without a jury.

Mr. Peterson: I take it, Judge—I represent Mr. Carter who has heretofore entered a plea, which the record shows has been entered, and the other counts have been dismissed—that I may be excused? I will try to be here most of the trial. This afternoon I find it very inconvenient to be here.

The Court: I see no difficulties about that in view of the turn that the case has taken.

Mr. Peterson: Thanks.

The Court: Provided it is with the clear understanding of your client.

Mr. Peterson: Yes.

The Court: That is between you and your client.

Mr. Peterson: Oh, yes.

Mr. Rose: Of course, your Honor, I do not know of any statutory proviso to this form. Upon inspection of the same, [17] there seems to be some nomenclature in there which, in view of the state of the record, would appear paradoxical. I am perfectly willing to either sign or orally waive a trial by jury in behalf of the respective defendants, one of whom I appear for without direction of the court, and for those for whom I am appearing pursuant to the order of your Honor.

This statement here, “I have advised the defendant fully”—it is using the singular pronoun; it would be interpreted as their rights—— “* * * request for a trial without a jury is understandingly made.” In regards to Mr. Danziger, I can

have him orally state and sign a waiver of trial by jury for himself. Now, I am willing to indicate my disposition to waive, and do waive a trial by jury for all of the defendants for whom I am appearing, but I cannot——

The Court: What is the local rule?

Mr. Lucas: Mr. Frankenberger, isn't it the local rule that we have to have the written waiver of all the defendants?

Mr. Rose: The only difficulty I find here, your Honor, is waiving by the corporate defendants.

The Court: I understand. Is there a local rule on it? Mr. Rose, you sign and have Mr. Danziger sign, and I will accept your oral statement as to the corporate defendants.

Mr. Rose: Very well, your Honor.

Mr. Lucas: Mr. Ladd.

The Court: Swear the witness. [18]

WILLIAM LADD,

called as a witness by and on behalf of the Government, having been first duly sworn, was examined and testified as follows:

The Clerk: State your name, please.

The Witness: William Ladd.

The Clerk: L-a-d-d?

The Witness: L-a-d-d.

Direct Examination

By Mr. Lucas:

Q. Mr. Ladd, what is your business or occupation?

(Testimony of William Ladd.)

A. I am a banker employed by the Bank of America.

Q. How long have you been with the bank?

A. I have been with the bank better than 13 years.

Q. What is your position with the bank?

A. Assistant cashier and chief clerk.

Q. What branch are you immediately working out of?

A. The Fourth and Spring branch.

Mr. Rose: Excuse the interruption. Your Honor, I am having extreme difficulty in hearing this witness.

Q. By Mr. Lucas: Speak a little louder, if you can, Mr. Ladd.

A. I will.

Q. You are under subpoena here to produce certain records, are you, Mr. Ladd?

A. Yes, I am.

Q. In response to that subpoena did you bring [19] certain records with you? A. Yes, I did.

Q. And those records that you brought with you are in your custody and regularly kept by the bank and in your custody as chief clerk?

A. That's right, they are.

Q. Now, will you show me those records, Mr. Ladd?

Mr. Lucas: I think, counsel, you have a photo-static copy of these documents.

Mr. Rose: I would be unable to say until I look at them.

(Testimony of William Ladd.)

The Court: Have you cleaned up the record as to these other defendants, Mr. Lucas, Callahan and Wright?

Mr. Lucas: Callahan, if your Honor please, is in the Army. His present whereabouts is unknown to us with detail. In other words, we had him located and identified in a certain Company, and so on, in Kentucky at one time. We will not proceed to trial against Callahan at this time or any other time, and I now move the dismissal of the case as against the defendant John J. Callahan.

As to the defendant W. W. Wright, he has never been contacted and the government is not sure that his whereabouts will ever be known, and I now move the dismissal of the case against Wright.

The Court: The motions are allowed.

Q. By Mr. Lucas: I ask you, then, Mr. Ladd, to [20] tell me if you have brought your collection record No. 310-3036?

A. Yes, I have.

Q. And what is that record?

A. That record represents a check drawn on The Miners National Bank of Pottsville, Bankers Trust Company, New York; that is, through the Bankers Trust Company of New York; the endorser, Wake Development Company. Collection describes a check, the item was, our record indicating that the check was sent to the Bank of the Manhattan Company, representing a check for \$1000.00.

(Testimony of William Ladd.)

Q. Does your record indicate who presented that check to you or left it with you?

A. That is indicated by the endorsement of Wake Development Company.

Q. I show you, Mr. Ladd, a document, after having first shown it to counsel, and ask you if you can tell by an examination of the document whether it is the check mentioned in your collection record?

A. Yes, that appears to be the check.

Mr. Lucas: We offer the check at this time, if the court please, as Government's Exhibit 1, and the collection record of the bank to which the witness has already referred, as 1-A, or ask that both be marked as 1, whatever the convenience of the clerk and the court is.

Mr. Rose: To which objection is had upon the following grounds: One, no proper foundation has been laid. The [21] same is irrelevant and immaterial to any issue in this case. On behalf of Danziger as an individual defendant, the same is not binding, and no proper foundation has been laid in respect to these purported transactions as to him.

And as to the defendant Trinidad Company, that no proper foundation has been laid, and it is immaterial and not binding.

The Court: The exhibits are admitted, subject to being connected up.

The Clerk: The check will be No. 1 and the collection record No. 2.

(Testimony of William Ladd.)

(The documents referred to were marked as Government's Exhibits Nos. 1 and 2, and were received in evidence.)

Q. By Mr. Lucas: Have you your collection record No. 310-0807?

A. Would you repeat that number again, please?

Q. 310-0807, dated March 7, 1940.

A. Yes, I have that before me.

Q. What does that collection record show?

A. That is also a check endorsed by the Wake Development Company; a check drawn on the Farmers National Bank, Mullica Hill, New Jersey; it is their cashier's check No. 2619, in the amount of \$300.00. The item was sent to our correspondent bank, Philadelphia National Bank in Philadelphia, Pennsylvania. [22]

Q. Does your collection record show it was collected?

A. Yes, our collection record shows the item was paid.

Q. Does it show for whose account it was paid and credited?

A. The collection is indicated that it was credited to the account of the Wake Development Company.

Q. Very well.

Mr. Lucas: Mr. Rose, I am sure there has been given to you a photostatic copy of each of these documents.

We offer this in evidence as the government's exhibit next in order.

(Testimony of William Ladd.)

Mr. Rose: Your Honor, since we are not confronted here with the usual situation, your Honor is receiving a number of these documents subject to being connected up, I do not want to interrupt the proceedings by certain objections which may become rather tiresome here. It seems to me, your Honor, that those exhibits speak for themselves if they are admissible on any hypothesis, and to ask the witness to tell what appears on a typewritten document would, necessarily, be subject to the objection that the document speaks for itself. As to this particular document now being offered, unless counsel indicates the theory upon which he is offering these documents, and as against which defendant and which count, I necessarily will have to encumber this record by interjecting my objection.

The Court: Take all the time you want, Mr. Rose. [23] Your client is charged with a very serious offense and serious consequences. Your duty to him is to protect his interests in every way you feel necessary and proper.

Mr. Rose: I am objecting to this document here on the following grounds: One, no proper foundation has been laid. Two, as to the defendant Danziger, the document on its face appears to not relate to any purported act or transaction by him personally. And the same as to the corporate defendant the Trinidad Company. The same is irrelevant and immaterial to any issue contained in this indictment.

(Testimony of William Ladd.)

The Court: Admitted subject to being connected up.

The Clerk: U. S. No. 3.

(The document referred to was marked as Government's Exhibit No. 3, and was received in evidence.)

Q. By Mr. Lucas: Did you produce collection record No. 310-0505?

A. Yes, I have that record before me.

Q. And what does that record show?

Mr. Rose: Object to it on the ground that the record speaks for itself. It merely calls for a conclusion and opinion of the witness.

The Court: Overruled.

The Witness: The collection record indicates that it was a check drawn on the Safety Fund National Bank, Fitchburg, Massachusetts; check signed by Mr. F. A. Russell, [24] in the amount of \$350.00; endorsed by the Wake Development Company; sent to our correspondent Empire Trust Company, New York City.

Q. Was it collected?

A. The item was collected and paid and credited.

Mr. Lucas: We offer that as government's exhibit next in order.

Mr. Rose: Objection is made to said offer upon the following grounds: One, no foundation and no proper foundation has been laid. Two, the said instrument on its face, insofar as the defendant Danziger is concerned, does not reflect any pur-

(Testimony of William Ladd.)

ported transaction with him. And as to the defendant Trinidad Corporation, likewise. As to the defendant Wake Development Company, objection is made on the ground, in addition to those already interjected, that it is irrelevant and immaterial.

The Court: Admitted subject to being connected up.

The Clerk: U. S. No. 4.

(The document referred to was marked as Government's Exhibit No. 4, and was received in evidence.)

Q. By Mr. Lucas: Did you produce your collection record No. 310-1682?

A. Yes, I have that record.

Q. What is that record?

A. It indicates a check drawn on the First National Bank at Farmingdale, New Jersey; a check signed by [25] W. A. Magill, in the amount of \$300.00.

Q. How much?

A. \$300.00. Endorsed by the customer of Wake Development Company. Sent to our correspondent bank, the Manhattan Company. The record indicates that the item was paid.

Mr. Lucas: We offer that as government's exhibit next in order.

Mr. Rose: Excuse me, your Honor. May I have the reporter read back the last remark of the witness?

(The record was read.)

(Testimony of William Ladd.)

Mr. Rose: Objection is made to said offer on the following grounds, severally: As to the defendant Danziger, the instrument on its face fails to reflect any purported transaction as to him. Likewise as to the defendant Trinidad Corporation. Furthermore, that no proper foundation has been laid. The same is irrelevant and immaterial.

The Court: Admitted subject to being connected up.

The Clerk: U. S. No. 5.

(The document referred to was marked as Government's Exhibit No. 5, and was received in evidence.)

Q. By Mr. Lucas: Now, have you produced your collection record No. 310-2675?

A. I have a collection record here No. 2673.

Q. It may be that I have made a mistake here. Is it dated May 3, 1940? [26]

A. Yes, it is.

Q. In the sum of \$1370.00?

A. That is the amount.

Q. What is shown on that collection record?

A. The collection record indicates the item was drawn on Miners National Bank of Pottsville, Pennsylvania, by Elizabeth T. Parsons, in the amount of \$1370.00; endorsed by Wake Development Company; sent to our correspondent bank, Philadelphia National Bank, Philadelphia, Pennsylvania; and the item indicates that it was paid.

Mr. Lucas: We offer that as government's exhibit next in order.

(Testimony of William Ladd.)

I am perfectly willing to stipulate that counsel may be deemed to have a running objection on behalf of his clients Trinidad and Danziger as to all of these exhibits, and it would save the repetition of the objection. If it is agreeable to counsel and the court.

Mr. Rose: I wish I could do that, but I don't think it is safe, your Honor. The Ninth Circuit seems to still believe that if you have an objection it should be interjected, and there is no such thing as a running objection, although we have accepted them in the local courts.

The Court: That is all right.

Mr. Rose: On behalf of the defendant Danziger, your Honor, objection is had to this instrument upon the ground that no proper foundation has been laid; that the instrument [27] on its face purports to reflect a transaction with a person other than the said defendant Danziger; that the same is irrelevant and immaterial as to both. And in respect to the several objections specified, that the same are urged on the same grounds as to the defendant Trinidad. As to the defendant Wake Development Company, I submit that the same is irrelevant and immaterial, and that the same doesn't tend to prove any issue contained in this indictment.

The Court: Admitted subject to being connected up.

The Clerk: U. S. No. 6.

(The document referred to was marked as

(Testimony of William Ladd.)

Government's Exhibit No. 6, and was received in evidence.)

Q. By Mr. Lucas: I show you a check, Mr. Ladd, and ask you to examine the check in connection with the collection record you have just testified to, and tell me whether or not that is the check that is represented by this collection record?

A. Yes, this appears to be the same check.

Mr. Lucas: We offer the check at this time, if the court please, as government's exhibit next in order.

Mr. Rose: May it be deemed, your Honor, that all of the objections noted to the purported record reflecting this particular item may be deemed re-interjected as to the check itself on all the same grounds?

The Court: It may.

The Clerk: U. S. No. 7. [28]

The Court: The check is admitted subject to being connected up.

(The document referred to was marked as Government's Exhibit No. 7, and was received in evidence.)

Q. By Mr. Lucas: I show you, after having first shown to counsel, a check in the sum of \$350.00 signed by Russell, and I will ask you to examine that in the light of Government's Exhibit No. 4, and tell me if that check is the check collected as shown by Government's Exhibit No. 4?

A. Yes, that appears to be the same check.

(Testimony of William Ladd.)

Mr. Lucas: I offer that check as the government's exhibit next in order, being a check for \$350.00 payable to Wake Development Company, and signed by F. A. Russell.

Mr. Rose: May it be deemed, your Honor, that the grounds of objection offered to the record which has been received by the court and is now Exhibit 4 may be deemed interposed to the check itself?

The Court: It may; and the check is admitted subject to being connected up.

The Clerk: U. S. No. 8.

(The document referred to was marked as Government's Exhibit No. 8, and was received in evidence.)

Q. By Mr. Lucas: Have you brought with you your collection record No. 310-2879?

A. Yes, I have. [29]

Q. And what does that collection record show?

A. This collection record shows a check—I beg your pardon, it shows a note signed by one Elizabeth Parsons, payable through Miners National Bank, Pottsville, Pennsylvania.

Q. Who was the payee in the note, if that is shown on your record?

A. The record does not indicate the payee. The endorsed was Wake Development Company. It is altogether possible it could have been a different payee.

Mr. Rose: I move the latter statement be stricken as voluntary and a mere conclusion of the witness.

(Testimony of William Ladd.)

The Court: Stricken.

Q. By Mr. Lucas: What does the record show, if it does show, as to who presented the note to the bank?

Mr. Rose: Object to that as calling for a conclusion, the record being the best evidence of what it shows.

The Court: Let the record speak for itself, Mr. Lucas.

Mr. Lucas: Very well. We offer that as government's exhibit next in order.

The Court: Mr. Rose hasn't seen that.

Mr. Lucas: Yes. Haven't you, Mr. Rose?

Mr. Rose: Is this part of that group you have shown me originally? I don't want to profess to have any memory of these documents until I glance at them.

Mr. Lucas: Yes, that is one of the original ones I showed you. [30]

The Court: Is the note next?

Mr. Lucas: We haven't got this yet.

The Court: The note went back to the maker, of course?

Mr. Lucas: That's right, but I think we have it.

The Court: Are you going to put it in now, following this?

Mr. Lucas: If we have it immediately available, yes. Mr. Mainland is trying to find it.

Mr. Rose: It would probably expedite matters if objection was entered to both, if they both relate to one transaction. Have you got that note handy?

(Testimony of William Ladd.)

The Court: Suppose you just lay this bank record aside until Mr. Mainland finds the note, and put them in together as being a note, rather than a check?

Mr. Lucas: Yes.

Q. By Mr. Lucas: Have you brought your collection record No. 310-3518?

A. Yes, I have.

Q. What is that collection record?

A. This collection record indicates a check drawn on the Miners National Bank of Pottsville, Pennsylvania, by Elizabeth T. Parsons, in the amount of \$1500.00; endorsed by Wake Development Company. The record indicates that the item was paid.

Mr. Lucas: We offer that as government's exhibit next in order. [31]

Mr. Rose: Mr. Lucas, are there going to be any collateral papers going to be offered in connection with this record?

The Court: They have a check there.

Mr. Lucas: We will have a check.

Mr. Rose: Don't you think it would help a lot if you offer them together, so I wouldn't have to repeat objections, and so forth?

Mr. Lucas: Yes, I am trying to get organized to the point where I can put those in. I have that right in my hand now, and I will tie it right in.

Q. By Mr. Lucas: Now I show you a check dated December 16, 1940, I believe, signed Elizabeth T. Parsons, Pay to the order of Wake De-

(Testimony of William Ladd.)

velopment Company, and ask you to examine the check in connection with your collection record, and tell me if the check is the same as that mentioned in your collection record.

A. Yes, this appears to be the same check.

Mr. Lucas: I now offer the collection record for \$1500.00 and the check for \$1500.00, as the government's exhibit in regular order.

Mr. Rose: To which objection is had on behalf of the defendant Danziger that the same is irrelevant and immaterial and is not binding on him. The same objection and the grounds as to the corporate defendant other than the Wake Development Company. With regard to the [32] defendant Wake Development Company, no proper foundation has been laid; it is irrelevant and immaterial and not tending to show any of the matters contained in the indictment.

The Court: The exhibits are admitted, subject to being connected up.

The Clerk: Mr. Lucas, just as one exhibit?

Mr. Lucas: Yes.

The Clerk: U. S. No. 9.

(The documents referred to were marked as Government's Exhibit No. 9, and were received in evidence.)

Q. By Mr. Lucas: Mr. Ladd, I will hand back to you your collection record No. 310-2879, being the collection record on the note item that we referred to a moment ago, and in addition I will hand you what appears to be a—I don't think I have

(Testimony of William Ladd.)

shown this to counsel—what appears to be a note signed by Elizabeth Parsons, and after showing it to counsel I will ask you about it.

I will ask you now, as I hand you this document, to examine that and your collection record, and tell me, if you can, whether or not the collection record refers to the identical document which you have in your hand?

A. Yes, this appears to be the same item.

Mr. Lucas: We now offer the collection record and the note, if the court please, as one exhibit.

Mr. Rose: Object to its introduction and acceptance in evidence as to the defendant Danziger on the ground that [33] no proper foundation has been laid; the same is irrelevant and immaterial. The same as to the Trinidad Company. So far as the defendant Wake is concerned, the same is incompetent and immaterial and doesn't tend to establish the commission of any of the charges set forth in the indictment.

The Court: The documents are admitted subject to being connected up.

The Clerk: U. S. No. 10.

(The documents referred to were marked as Government's Exhibit No. 10, and were received in evidence.)

Q. By Mr. Lucas: Have you produced, Mr. Witness, a check for \$7000.00?

A. Yes, I have a check for that amount.

Q. May I see that, please?

(Testimony of William Ladd.)

(Witness hands counsel a paper.)

Q. I show you, after having first shown to counsel, the check which you handed to me dated July 30, 1937, on the Miners National Bank of Pottsville, the check on its face says Pay to the order of Arthur Winslow \$7000.00, and ask you to examine the check and tell me whether or not it was presented through your bank?

A. The check was presented through our bank.

Q. Does it show it was paid?

A. The item has been paid.

Mr. Lucas: We offer this as the government's exhibit [34] next in order, if the court please.

Mr. Rose: To this offer, your Honor, we interpose the following objections, severally: One, that the instrument on its face bears the date which makes the item remote, and that said item cannot pertain or relate, assertedly, to any transaction or transactions constituting the charges contained in the indictment. As to the defendant Danziger, the same on its face purports to reflect no connection with said defendant, nor the Trinidad Corporation. No proper foundation has been laid, the same is irrelevant and immaterial and not competent to prove any issue on any of the charges contained in the indictment.

The Court: Admitted, subject to being connected up.

The Clerk: U. S. No. 11.

Mr. Lucas: Did you say 11?

(Testimony of William Ladd.)

The Clerk: Yes, 11.

(The document referred to was marked as Government's Exhibit No. 11, and was received in evidence.)

Q. By Mr. Lucas: Now, have you produced another check, Mr. Ladd, for \$100.00?

A. Yes, I have.

Q. May I see that, please?

You have handed me a check dated April 13, 1938, Pay to the order of Wake Development Company, \$100.00; I will ask you to examine that check and tell the court whether or not it was presented through your bank for collection, [35] and whether or not the item was paid.

A. Yes, the item was presented through our bank for collection, and was paid.

Mr. Lucas: We offer that as government's exhibit next in order.

Mr. Rose: Objection to this offer is interposed upon the following grounds, severally: That the instrument on its face purports to reflect a transaction prior to and other than with any person mentioned or transaction referred to in the indictment. There has been no proper foundation laid for its admissibility on any theory. The same as to the defendant Danziger, it is incompetent. Likewise, as to defendant Trinidad, the corporation. As to the Wake Development Company, that it is immaterial.

The Court: Admitted subject to being connected up.

(Testimony of William Ladd.)

The Clerk: U. S. No. 12.

(The document referred to was marked as Government's Exhibit No. 12, and was received in evidence.)

Q. By Mr. Lucas: Now, have you produced collection record No. 310-1191?

A. Yes, I have.

Q. What does that collection record refer to?

A. It indicates it is a check drawn on the First National Bank in Yonkers, in the amount of \$390.00. The check was endorsed by Wake Development Company; sent through our correspondent bank The Manhattan Company in [36] New York; and the item was paid.

Mr. Lucas: Counsel, I believe this is one you have not heretofore been shown. I haven't seen it myself. Pardon my inadvertance.

Mr. Rose: Do you endeavor to associate any individual with this, or is this from bank to bank?

Mr. Lucas: Here is the check that goes with it.

Q. By Mr. Lucas: I show you, Mr. Ladd, a check drawn on the First National Bank of Yonkers, Pay to the order of Wake Development Company, \$390.00, and ask you to study the check in connection with your collection record that you have just referred to, and tell me whether or not the check is the identical item mentioned in the collection record.

A. Yes, this appears to be the same check.

Q. And that check was paid on the collection record?

A. That check was paid.

(Testimony of William Ladd.)

Mr. Lucas: We offer the two documents as one exhibit, if the court please, government's exhibit next in order.

Mr. Rose: As to the defendant Danziger, your Honor, we object to this offer and each and every part thereof, on the ground that the same is not binding on him, no proper foundation laid. The same as to the corporate defendant Trinidad Company. As to Wake Development Company, the same is immaterial and cannot be received to sustain any of the charges contained in the indictment.

The Court: Admitted subject to being connected up. [37]

The Clerk: U. S. No. 13, one exhibit.

(The documents referred to were marked as Government's Exhibit No. 13, and were received in evidence.)

Q. By Mr. Lucas: Have you anything else, Mr. Ladd, under the subpoena, or otherwise, that you haven't shown me?

A. Only a photostatic copy, I believe, of a check, which were were unable to produce the original records.

Q. You have a photostatic copy?

A. That's right.

Q. Are you able, from the photostat itself, to tell me when—what is the amount of that?

A. \$7000.00.

Q. Can you tell me whether or not that is the same \$7000.00 that we heretofore offered an exhibit on in the form of a Winslow check?

(Testimony of William Ladd.)

A. Yes, this is the same check.

Q. And you have a collection record of this check?

A. We do not have the original collection record.

Q. You have a photostat of the collection record?

A. Photostat, yes.

Q. Do you recognize that which you have in your hand as a true copy, photostatic copy, of your collection record?

A. Yes, this appears to be a true copy.

Q. Do you remember when it was taken, the date of it?

A. No, I don't. I do not know when this photostat was taken. [38]

Q. Can you examine it in connection with the check and state whether or not it is a true copy of the collection record of your bank, whereby that \$7000.00 check was collected?

Mr. Rose: Objected to as calling for a conclusion and opinion of the witness. It is incompetent for any purpose.

The Court: He may answer.

The Witness: Yes, I believe this is the copy, photostatic copy of the original.

Mr. Lucas: I offer the photostat in evidence as government's exhibit next in order, there being in connection with that—I haven't quite finished yet.

Q. By Mr. Lucas: You handed me two documents, Mr. Witness, one called a collection receipt; is that a companion document which goes with the

(Testimony of William Ladd.)

collection record about which you have just been testifying?

A. That's right, it is a copy of the receipt that we issued to the endorser, Wake Development Company, which we ordinarily pass out, and the receipt itself indicates the corresponding collection number of the photostat.

Q. I see. So that from that number you know that this is a companion document to the photostat that counsel has in his hand?

A. To the photostat, yes.

Q. I will ask you if it isn't also true that the check has a number on it—that is, the check, Government's Exhibit [39] 11, has a number whereby you can determine and tell whether or not this check is tied into that record?

A. That's right. Our usual procedure is to have their one corresponding number for each of our collections.

Q. And do you find the corresponding number on each, the collection receipt, the check and the collection permanent record?

A. Yes, those are all the same.

Q. And what is that number?

A. It is 6001342.

Mr. Rose: I am objecting to this as wholly immaterial.

The Court: It is admitted subject to being connected up.

The Clerk: U. S. No. 14.

(The documents referred to were marked as

(Testimony of William Ladd.)

Government's Exhibit No. 14, and were received in evidence.)

Q. By Mr. Lucas: Have you exhausted everything that you have brought with you in response to the subpoena?

A. Yes, sir, that's right.

Q. I show you, after having first shown to counsel, a check on the check stationery of the Wake Development Company, Continental Building, dated May 7, 1940, Pay to the Order of Cash, \$950.00, signed Wake Development Company, in printing, by J. M. Danziger, and ask you to examine the check and tell me whether or not it was paid.

A. Yes, the check was paid. [40]

Mr. Lucas: I offer that as government's exhibit next in order, if the court please.

Mr. Rose: Object to it on the ground that no proper foundation has been laid, wholly irrelevant and immaterial.

The Court: Admitted subject to being connected up.

The Clerk: U. S. No. 15.

(The document referred to was marked as Government's Exhibit No. 15, and was received in evidence.)

Q. By Mr. Lucas: And as a part of Government's Exhibit 15, I show you a similar check, Wake Development Company, dated July 2, 1940, Pay to the order of Cash, signed Wake Develop-

(Testimony of William Ladd.)

ment Company, by J. M. Danziger, and tell me whether that was cashed and paid.

A. Yes, that check was cashed and paid.

Q. And another check, the same maker, same payer, dated August 10, amount \$650.00; was that cashed and paid?

A. Yes, that was cashed and paid.

Q. Another check, same maker, drawn on the same stationery, dated 12-23-1940, Pay to Cash, in the sum of \$1130.00, and ask you if that was paid.

A. Yes, that check was cashed and paid.

Mr. Lucas: I offer these three additional documents to accompany the other one, and all to be known as Government's Exhibit 15, if the court please.

Mr. Rose: Object to it on the ground that no proper foundation has been laid; it is wholly irrelevant and [41] immaterial to any issue in this case.

The Court: The exhibits are admitted as one exhibit, subject to being connected up.

The Clerk: U. S. 15.

(The documents referred to were marked as Government's Exhibit 15, and were received in evidence.)

Mr. Lucas: You may cross examine, counsel.

Mr. Rose: No questions.

Mr. Lucas: You may step down. What time does your Honor usually take the afternoon recess?

The Court: Now. Is that the custom? How late do you run?

Mr. Lucas: That is controlled by the court here,

(Testimony of William Ladd.)

and each different Judge has his own views on the matter.

Personally, in a long, drawn-out trial like this, I prefer, if we can, to recess at 4:30. I say the custom is guided here locally, your Honor, by the Judge presiding in each department.

May this witness be excused, your Honor?

The Court: Yes.

(Witness excused.)

The Court: Do you suggest the afternoon recess?

Mr. Lucas: Yes.

The Court: What is the customary period?

The Clerk: 10, 12 minutes, your Honor.

(A short recess was taken.) [42]

Mr. Rose: If I may be permitted——

The Court: Yes, Mr. Rose.

Mr. Rose: A few moments ago, your Honor, the question came up informally as to the state of the record in regard to noting of exceptions. I may have misunderstood the rulings of your Honor. I want to indicate that I have assumed in the reception of these exhibits over the objections interposed, subject to their being connected up, that your Honor did not require any exception to be noted until your Honor ultimately receives that evidence on the theory that there has been some foundation laid for the reception of them. As I correct about that?

The Court: I think that would protect your position.

Mr. Rose: In other words, I didn't want to inadvertently place myself in the position of waiving an exception to the ruling, because I have assumed that your Honor, under his great discretion, is accepting a lot of these offers and will ultimately pass on their admissibility as against one or all of the defendants.

The Court: Provided—if and when the question is raised again, that would be for you to do. At that time if my ruling should be adverse to you, you would be entitled to an exception, and of course we will give it to you. I think that will protect your position.

Mr. Lucas: Call Miss Hedge. [43]

FLORENCE HEDGE,

called as a witness by and on behalf of the Government, having been first duly sworn, was examined and testified as follows:

The Clerk: Will you state your name?

The Witness: Florence Hedge.

Mr. Lucas: By the way, you have now been sworn. Do you want to take up something?

The Witness: According to the postal laws and regulations, I am not allowed to testify unless ordered to do so by the court.

The Court: Will you read that?

(The record was read.)

The Court: I will make the order.

Mr. Lucas: Thank you, your Honor.

(Testimony of Florence Hedge.)

Direct Examination

By Mr. Lucas:

Q. I will show you, Miss Hedge, after having previously shown to counsel and supplied counsel with a copy thereof, an application for a postal money order, and ask you if you have ever—withdraw that.

What is your business or occupation?

A. Money order clerk.

Q. You are what? A. Money order clerk.

Q. At what place? [44]

A. At the present time, Metropolitan station. But at that particular time I was in Station N.

Q. You are a Postal Money Order clerk for the United States Government? A. That is right.

Q. And you were at the times mentioned or shown in these exhibits with Station N, and where is that located?

A. In the Mezzanine floor of the Broadway Department Store.

Q. Very well. With that foundation, then, I show you an application for a domestic money order, and tell me if you have ever seen that document before?

A. Yes, I have, and that's my writing on there.

Mr. Rose: I can't hear the witness.

Mr. Lucas: Speak up.

(The answer was read.)

Q. By Mr. Lucas: You accepted that application, did you, at the time—— A. I did.

Q. ——that it is dated? A. I did.

(Testimony of Florence Hedge.)

Q. And issued a money order thereon as shown by the amount on that application?

A. That's right.

Q. The person who procured that application signed for it, did they? [45]

A. I didn't actually see him sign the application, but he presented it to me as if he had.

Q. Yes. That is the requirement, however, that it be signed by somebody who presents it?

A. That's right.

Mr. Rose: Just a moment. I submit it calls for a conclusion and opinion of the witness.

Mr. Lucas: I think it is a matter of common knowledge, and I will withdraw the question.

Q. By Mr. Lucas: On that, you say you issued a Postal Money Order? A. That's right.

Q. And delivered it to the person purchasing it?

A. That's correct.

Q. I show you another application for a money order, and ask if you have seen that before.

A. I have; and that is my writing on it.

Q. You issued a money order on that, also?

A. Yes, that's correct.

Q. To the person applying for it?

A. That's correct.

Q. In the amount shown on the application?

A. Yes.

Q. And the application is correctly dated, is it?

A. That's right.

Q. And that date is indicated by what, a stamp?

(Testimony of Florence Hedge.)

A. Money order stamp which we keep locked when not in use in our safe.

Mr. Rose: Just a moment, counsel. I am absolutely unable to understand what the witness is saying. [47]

Mr. Lucas: You may come over a little closer, counsel. I have no objection.

Mr. Rose: Perhaps it might help matters if I come over on this side. Will your Honor direct the reporter to read the answer?

The Court: I can direct the reporter, but I can't do anything with the witness. I have tried to do things with women before, and I never had any luck. If they don't want to talk up, they won't talk up on my account.

You can read back a couple of answers. They weren't on important matters.

Mr. Rose: It didn't occur to me, but I would like to really know what was said.

The Court: Read back a little ways, Mr. Reporter.

(The record was read.)

Q. By Mr. Lucas: I show you another application, Miss Hedge, and ask you if you have seen that before.

A. Yes, I have.

Q. The document is correctly dated, is it?

A. That is correct.

Q. And you issued a money order in accordance with the amount shown on that application?

A. Yes, I did.

(Testimony of Florence Hedge.)

Q. I show you another one and ask you if you have seen that before. A. I have. [48]

Q. And is the document correctly dated?

A. That's correct.

Q. And did you issue a money order for the amount shown on the application? A. I did.

Q. I show you another one and ask you if you have seen that before. A. Yes, I have.

Q. And is the document correctly dated?

A. That's right.

Q. And you issued a money order to the person making the application? A. Yes, I did.

Mr. Rose: Just a moment. I object to the form of the questions as being leading and suggestive, calling for a conclusion of the witness, and no proper foundation laid. The form of this particular question, your Honor will note, incorporates some factors and elements that are different than the preceding questions.

Mr. Lucas: It was purely an inadvertence, Mr. Rose. I cannot always repeat myself, you know.

Mr. Rose: I recognize that. That is why I am making the objection.

The Court: Well, your testimony is that you issued money orders at the dates of these applications to the people who signed them? [49]

Are their signatures on there?

Mr. Lucas: Yes.

The Court: Is that your testimony?

The Witness: To the persons presenting the applications.

(Testimony of Florence Hedge.)

Q. By Mr. Lucas: I show you now the final one that I have, Miss Hedge, an application, and ask you if you have seen that document before.

A. I have.

Q. Is that your handwriting on the upper part there?

A. That is my handwirting on all of them.

Q. When you said your handwriting on all of them, you meant the figures shown above the words "Application For Domestic Money Order," did you not?

A. This is my initial, which we have to put on each and every application.

Q. Then your initial is on each one of them?

A. Yes; and this is the number of the bill that was presented at the time; the \$100 bills that were presented at the time he sent the orders, a copy of each one of the numbers of the hundred dollar bills.

Q. The writing on each of the applications, below the words "Application For Domestic Money Order" is not yours, is it?

A. No, it is not mine.

Q. That was on the application at the time it was presented to you at the window, is that correct? [50]

A. That's correct.

Q. I show you the one numbered 983069, and on that you have indicated something in your handwriting. That is what?

A. The number of each one hundred dollar bill. The number of the bill.

(Testimony of Florence Hedge.)

Q. In other words, this application is for one \$100?

A. There are three \$100 bills indicated on this particular application. I didn't put any more on because I didn't have any more room, but I think you will find two on the other one, two or three on one of the other ones.

Q. I see. That is what you refer to?

A. Yes. We are not required to do that, but I do it in case of a counterfeit.

Mr. Rose: What was the last?

(The record was read.)

Q. By Mr. Lucas: All of these documents, then, applications, were taken on the same day?

A. That's correct. They have consecutive numbers.

Q. And they were all issued in consecutive order at the same time? A. Yes.

Mr. Lucas: I offer these in evidence as one exhibit, your Honor, being six original applications, and ask that an order be made at this time that we may at some other time, and in the course of the trial, substitute photostatic copies [51] thereof in place of these originals.

Mr. Rose: Objection is had to these offers and each of them upon the ground that the same is irrelevant and immaterial to any of the issues in this case; that no proper foundation has been laid. And by "foundation" I am not addressing the objection to the foundation that these are bona fide applications for money orders.

(Testimony of Florence Hedge.)

Mr. Lucas: What is the basis of your foundation or objection, Mr. Rose?

Mr. Rose: That they do not tend to prove and cannot competently prove any charge contained in the indictment over which the government would have any jurisdiction. May I, in amplification of these objections, indicate to your Honor that some reference, in part, is made to these exhibits in Count No. 17 of the indictment, which charge, reduced to its lowest terms, purports to charge a violation of Code Section 18—rather, 18 of Section 88.

According to my recollection of the nature and character of that offense, that offense is one that you define as a conspiracy to defraud the government of the United States. It doesn't pertain or relate to alleged conspiracies in regard to personal transactions. That section relegates itself—I may be in error, but I believe I am correct—to conspiracies to defraud the government. And there is no foundation laid, and these offers are wholly immaterial and irrelevant to any matters over which the government would [52] have control. It isn't contended that the applications, on the part of anyone—that the Government of the United States was intended to be defrauded, and therefore they are immaterial.

Mr. Lucas: I think an explanation to the court is probably in order at this time.

The applications, your Honor, have the printed legend on each of them "Sent by" and opposite that is the name "A. Levy." The government

(Testimony of Florence Hedge.)

charges that that A. Levy is Mr. Danziger, and we will offer proof that in each of these six applications they were applied for by the defendant Danziger in sending money to his co-defendant Carter, who appears in this document as Carlton. And if counsel doesn't feel like stipulating that his client signed them, we have a government expert here to supply any deficiency along that line.

I have six photostatic copies, that is, a photostatic copy of each of these, and if no one has any objection—they are very good work—I would substitute the photostats for the originals, and that will put us in a position to return these original documents to the Post Office department.

The Court: The originals better stay for the period of the trial.

Mr. Lucas: Very well.

The Court: What about Mr. Rose's reference to Count 17, which he says is about conspiracy to defraud the government?

Mr. Lucas: I think Mr. Rose is wrong. These documents [53] are offered in support of the conspiracy that is mentioned in the very first three or four pages of the indictment, the charge that they had conceived a conspiracy and did things in furtherance thereof; and these documents are offered in furtherance of a conspiracy that is the foundation of the 16 counts of the indictment.

The Court: What about his reference to conspiracy to defraud the government? Is there any such charge in the case?

(Testimony of Florence Hedge.)

Mr. Lucas: I don't know what Mr. Rose has in mind.

Mr. Rose: If your Honor will look at the very last page of the indictment, just the last paragraph above the signature of William Palmer, United States Attorney. Observe that it is there charged that the so-called acts, antecedents of this concluding paragraph, these acts were "Contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America. Title 18 U. S. C., Section 88."

Now, Section 88 of that statute pertains to a conspiracy to defraud the Government of the United States. That is what they claim this particular count was a violation of. They have got a lot of redundant matter there, but we know in charging an offense you set out certain things, and here they charge that this was contrary to Title 18, United States Code, Section 88.

The Court: Mr. Lucas has just said he is offering these [54] in support of the conspiracy charged in Count 1.

Mr. Lucas: And in each of the remaining counts which are set forth and adopted by reference in each of the succeeding counts.

The Court: The conspiracy in Count 1 is conspiracy to defraud private individuals, I take it. I haven't read it closely.

Mr. Lucas: I say it is offered in support of the charge——

The Court: I want to get one thing through my

(Testimony of Florence Hedge.)

head. Is there a charge in here some place under the statute about defrauding the government?

Mr. Lucas: I don't think so, your Honor. I think it would all be eliminated if counsel would read Section 88.

Mr. Rose: I might pass that on to opposing counsel. I have read it.

The Court: All right. Maybe I will have to read it. They are admitted for the present as one exhibit.

The Clerk: U. S. 16.

(The documents referred to were marked as Government's Exhibit No. 16, and were received in evidence.)

Mr. Lucas: That is all. You may cross examine.

At this time I offer in evidence, under the section—I think it is 687 or 691—authorizing the introduction in evidence of certified copies of government documents, I now offer in evidence under the certificate of the general [55] accounting office, ten money orders. And I say, just in passing, your Honor, that six of these money orders, Post Office money orders, are connected with and tied in with the six applications here that have just been introduced. The remaining four money orders are a part of the certification and I do not want them separated, but they have no reference to these money orders here. Just the first six, which were testified to by Miss Hedge.

The Court: Weren't you prepared to dismiss this witness a minute ago?

(Testimony of Florence Hedge.)

Mr. Lucas: If counsel has no objection.

The Court: You turned her over for cross examination, then you recalled that you hadn't put in your exhibits.

Mr. Lucas: I don't need the witness to put this in.

Cross Examination

By Mr. Rose:

Q. This form of so-called application for domestic money order, prior to receiving your attention, are available for any persons who want to pick them off the counter, isn't that correct, like blank checks in a bank? A. In blank style, yes.

Q. Some people have them in the office; you don't control their distribution, do you?

A. No.

Q. They are available to any person who wants to come in and get them? [56]

A. That is true.

Q. When one of these is presented to you, and was in this particular instance, you are not concerned with the person who was purchasing the money order, were you? A. No.

Q. You didn't make any inquiry about the identity of the person?

A. We do not when they present a money order or application for a money order.

Q. You want to know to whom the money is to be sent? A. That is all.

Q. And you make no inquiry about that?

(Testimony of Florence Hedge.)

A. No.

Q. And if the money is handed to you, plus the postal charges, you simply make out the money order to the person designated on this application, without inquiry of any kind or description?

A. That is correct.

Q. Is that correct?

A. That is correct.

Q. And so far as your knowledge at this time goes, you have no personal memory of the person or persons who presented either the money or these applications which constitute part of Exhibit No. 16?

A. No, I do not.

Mr. Rose: That is all. [57]

Mr. Lucas: One question before your Honor excuses this witness, in connection with this document from the general accounting office, which I offered.

Redirect Examination

My Mr. Lucas: I show you, Miss Hedge, a photostatic copy of a United States Money Order, and ask you to examine the first six of these——

A. Seven.

Q. Seven?

A. Yes.

Q. ——and tell me if you can find on this photostat any identification mark of any kind, or any mark that you placed on the original?

A. I don't understand what you mean. Oh, yes, my initial.

Q. That is what I hoped you would find.

A. In my own handwriting.

Q. You find that on——

(Testimony of Florence Hedge.)

A. On each and every one of them.

Q. You have shown me the first one. Where is your initial there?

A. There (indicating).

Q. You are showing me what?

A. "H."

Q. Right beneath the typed name "Mary D. Briggs?"

A. It is a stamp. [58]

Q. Is it on the second one?

A. It is on the second one. It is on the third one. It is on the fourth one. It is on the fifth one. It is on the sixth.

Q. It is on the sixth?

A. Yes.

Q. And the first six of that exhibit are the ones you signed your initial on?

A. That is correct.

Q. Can you from examination of those photostatic documents tell me whether or not those are the photostats of the money orders that correspond with the applications that you have just heretofore identified and which are in evidence as Government's Exhibit 16?

A. These are not in numerical order. Do you mind if I reverse them, or just leave them as they are?

Q. Just look at them however you want. I don't know that the clerk has any preference as to how he clipped them together.

A. The numbers correspond.

Q. And they are photostats of the money orders that you issued on the applications, Government's Exhibit 16?

A. That is correct.

Mr. Lucas: That is all.

(Testimony of Florence Hedge.)

The Court: You had better put those other documents in so Mr. Rose can cross examine as to them if he wishes while she is here. [59]

Mr. Rose: Your Honor, I have no inquiry of this witness with respect to testimony given about this document.

Mr. Lucas: I now offer the General Accounting certification containing ten photostats in evidence as government's exhibit next in order.

Mr. Rose: Your Honor, while counsel recognizes the provisos respecting the receiving of government records in the form proffered, without objection to the form in which these documents appear, I am objecting on the following grounds, nevertheless, waiving that part of the objection, and these objections are made severally and jointly in behalf of each of the defendants now on trial: One, that no proper foundation had been laid; secondly, they are irrelevant and immaterial, they do not tend to prove any of the issues in the indictment over which the government would have jurisdiction; that they are not competent for the purposes for which they are offered, and there are no foundational facts before the court in connection with these transactions.

I think I have about covered the field.

The Court: They are admitted.

The Clerk: U. S. 17.

(The documents referred to were marked as Government's Exhibit 17, and were received in evidence.)

(Testimony of Florence Hedge.)

Mr. Rose: I take it, your Honor, their being received is subject to the rule your Honor has been using? [60]

The Court: Yes, they are admitted subject to their being connected up.

Mr. Lucas: Mr. Wilkes.

The Court: Do you need the postal clerk further?

Mr. Lucas: No. May she be excused, if the court please?

The Court: Yes.

Mr. Lucas: You may be excused, Miss Hedge.

(Witness excused.)

DOUGLAS WILKES,

called as a witness by and on behalf of the Government, having been first duly sworn, was examined and testified as follows:

The Clerk: State your name, please.

The Witness: Douglas Wilkes.

Direct Examination

By Mr. Lucas:

Q. Mr. Wilkes, what is your address?

A. Business address, Chester-Williams Building, 215 West Fifth Street.

Q. What is your business or occupation?

A. Chief clerk of the Western Union Telegraph Company.

(Testimony of Douglas Wilkes.)

Q. How long have you been with the Western Union? A. Some 14 years.

Q. Are you under subpoena to appear here as a witness in this case? A. Yes, sir. [61]

Q. And have you, in response to that subpoena, brought certain documents with you?

A. Yes, sir.

Q. Did you bring with you original application for Western Union money order in the sum of \$621.54, dated July 2, 1940?

A. We have photostatic copies of it.

Q. Yes. When was that photostat made, if you know?

A. I think these photostats were made sometime ago; I believe it was back in September of 19—well; it was in 1941.

Q. They were made at the request of the Securities and Exchange Commission, were they?

A. Yes, sir.

Q. Photostats have been in your possession ever since? A. Yes, sir.

Q. And they are a true and correct copy of the original? A. That's right.

Q. You recognize them as a true and correct copy of the original? A. I do, yes.

Q. And where is the original, if you know?

A. The originals have been destroyed.

Q. You just kept the photostats?

A. Yes, sir. [62]

Q. You said you had the original application for \$631.54, dated July 2, 1940, is that right?

(Testimony of Douglas Wilkes.)

A. That is true.

Q. Have you the Western Union money order for \$621.54, dated the same date?

A. Yes, photostatic copy.

Q. And that was issued on the application?

A. That's right.

Q. Will you just give me those two documents? They are one sheet here, are they? A. Yes.

Q. In other words, the top is the application?

A. That is true.

Q. And the next document below that is the money order itself?

A. Draft issued in payment of the application, yes.

Q. And the third photostat on there is the reverse side of the money order showing an endorsement? A. That's true.

Mr. Lucas: We offer this in evidence, and in support of the offer we will state to the court that it is the contention of the government that the signature "A. Levy" on the application is the signature of the defendant Danziger.

If that is not admitted by counsel, we stand ready to prove that by a government handwriting expert. That [63] the endorsement "George Carlton" on the back of the money order is the signature of the defendant Carter. That is its relevancy, your Honor, and we offer it as the government's exhibit next in order.

Mr. Rose: We resist the offer upon the following grounds: One, that it affirmatively appears that the

(Testimony of Douglas Wilkes.)

same is not an original document; that no proper foundation has been laid; the same is wholly irrelevant and immaterial to any issue in this case, and the same is not competently admissible in support of any charge over which the government of the United States would have jurisdiction.

The Court: It is admitted subject to being connected up.

The Clerk: U. S. 18.

(The document referred to was marked as Government's Exhibit No. 18, and was received in evidence.)

Q. By Mr. Lucas: Mr. Wilkes, did you produce an original application for Western Union money order dated December 7, 1938, and the money order that was issued thereon, Money Order No. F-471188, dated December 7, 1938?

A. December 7? Yes, sir.

Q. Have you that document? A. Yes, sir.

Q. And that is produced in response to the subpoena and is a part of the regularly kept records of the Western Union? [64]

Q. And that, also, is a photostat?

A. Photostatic copy, sir.

Q. And what has been said with respect to the other exhibit, is it true of that, the original is destroyed? A. Yes, sir.

Mr. Rose: Objected to as leading and suggestive.

Mr. Lucas: I will withdraw the question.

Q. By Mr. Lucas: What happened to the original, Mr. Wilkes?

(Testimony of Douglas Wilkes.)

A. I beg your pardon?

Q. What happened to the original of that document?

A. The originals have been destroyed.

Q. And that photostat was made by your company, or under your direction?

A. Indirectly under my supervision, yes, sir.

Q. And you recognize it as a true and correct copy of the original? A. Yes.

Mr. Rose: I object to it as leading and suggestive, calling for a conclusion of the witness.

The Court: You go ahead and tell how it was made, Mr. Wilkes, and what you had to do with it.

The Witness: Under existing practices we have to destroy records of all money orders after a certain period of time has elapsed. In this particular case we had previous notice that the records may be required later on, [65] and of course photostatic copies are really made in our office and maintained as a matter of record.

Q. And that is——

A. I personally saw the original copies, however, before they were destroyed.

Q. And you recognize that as a true copy of the original? A. Yes, sir.

Q. First you handed me two photostats; one a Western Union money order, I take it is this.

A. That is true.

Q. The next document is the money order itself, and the endorsements on the back thereof?

A. That is the draft issued against it, yes.

(Testimony of Douglas Wilkes.)

Q. Against the application?

A. That is true.

Mr. Lucas: I show these to counsel.

I offer these two documents as one exhibit, if the court please; and in explanation of the offer we would say that it is the contention of the government that in this instance the defendant Danziger was using the alias "T. Mack" in making the application; that the signature on the application "T. Mack" is in the handwriting of the defendant Danziger, and that the endorsement on the back of the money order or draft itself, "George Carlton" is the alias of defendant Carter and is in his handwriting, [66] and we offer these two documents as one exhibit.

Mr. Rose: To which we object on the ground that no proper foundation has been laid; the same is purely irrelevant and immaterial; there are no foundational facts at present which authorize the admissibility of these documents in order to tend to prove any offense over which the Government of the United States would have cognizance; that the same is irrelevant to the issues in the indictment.

The Court: Admitted subject to being connected up.

The Clerk: U. S. 19.

(The documents referred to were marked as Government's Exhibit No. 19, and were received in evidence.)

Mr. Rose: Perhaps, counsel, we may expedite

(Testimony of Douglas Wilkes.)

some of these proceedings, if you have a series of documents of similar character——

Mr. Lucas: I only have three more, counsel.

Mr. Rose: Perhaps we can stipulate that the witness will testify that the documents are of similar nature and character except as reflected by amounts and dates, as those already received, and then I can interpose my objection, and in that way we can save time.

Mr. Lucas: I will accept that stipulation.

Q. By Mr. Lucas: The next one I want is original application and original money order 710097 for \$177.19.

A. Yes, we have that.

Q. And do you have the application for Western Union [67] money order for \$909.19?

A. Yes.

Q. The application and the money order both?

A. Yes, photostats of them.

Q. And you have the original Western Union money order for—no, that is all of the Western Union money orders. Do you have the Postal Telegraph money order for \$642.60?

A. Photostatic copies, yes.

Q. And the Postal money order was issued on that application? A. That is true, correct.

Q. And in respect to the Postal, now, the Postal Telegraph Company was taken over by the Western Union, is that right?

A. Well, we purchased and absorbed the Postal in October, 1943, yes.

(Testimony of Douglas Wilkes.)

Q. You came into the possession of those Postal records in what manner?

Mr. Rose: We will assume by taking over the business of the Postal Telegraph Company.

Mr. Lucas: All right.

Q. By Mr. Lucas: After it was taken over by the Western Union, did the Postal document which you have there come into your possession as chief clerk of the Western Union? [68]

A. That is true. As a matter of fact, all records of money orders of the company, after it was absorbed, really came under the control of the Western Union comptroller in New York.

Q. You came by the document in the due and regular course of business, did you?

A. Yes, sir. It was in our custody, of course, after we succeeded the other company.

Q. That is one complete document, is it?

A. Yes.

Q. And the next one is? A. Yes.

Mr. Lucas: I offer in evidence now, then, Western Union money order No. 710097, the application signed A. Levy, and the Western Union money order paid to George Carlton, and endorsement, a photostatic copy thereof, as the government's exhibit next in order.

Do you want to make your objection now or later, counsel?

Mr. Rose: Are you going to offer them all as one exhibit?

Mr. Lucas: No. They have been separated here-

(Testimony of Douglas Wilkes.)

tofore, I take it. I can make all my offers and you can make one objection to the entire matter.

Mr. Rose: Go ahead.

Mr. Lucas: I next offer Western Union money order [69] application and Western Union money order No. F976148, and the reverse side as shown by the photostat of the endorsement of Western Union money order.

I now offer photostatic copies of Postal money order No. H431534, the application being signed A. Levy, and the money order payable to George Carlton, as government's exhibit next in order, and make the same representations as to the contention of the government, that the signature "A. Levy" is in truth and in fact the signature of defendant Danziger, and the endorsement "Carlton" is the endorsement of the defendant Carter.

Mr. Rose: Your Honor, the objections interjected in behalf of the defendant Danziger and the Wake Development Company and Trinidad Corporation to these respective documents, namely, 20, 21 and 22, are made upon the following grounds: That no proper foundation has been laid to its reception in evidence. And I am not addressing the objection to the lack of foundation on the contention that these documents are not records of the Western Union or Postal Telegraph Company; I mean any foundation in respect to its competency and admissibility for the purpose of establishing the commission of any public offense, more particularly the offenses charged in the indictment. They

(Testimony of Douglas Wilkes.)

are wholly irrelevant and immaterial and they are not competent for that purpose. Nor is any foundation laid in respect to the incipient stages of the procurement of the documents or the manner or means or communication respecting how they [70] were to be procured and by whom.

The Court: They are admitted subject to being connected up.

The Clerk: U. S. 20, 21 and 22.

(The documents referred to were marked as Government's Exhibits Nos. 20, 21 and 22 and were received in evidence.)

Mr. Lucas: You may cross examine.

Cross Examination

By Mr. Rose:

Q. Mr. Wilkes, you are assigned to part of the staff of the Western Union Company for the purpose of coming into court and producing documents under subpoena, and so forth, is that correct?

A. Yes, sir.

Q. With respect to the application for a Postal money order, no identity of the sender of the money is required by the company, isn't that correct?

A. Yes, that is correct, we don't require it.

Q. On the other hand, the payee, judging from the stamp on this money order is not transferable, must identify himself as the person whose name appears thereon?

A. Oh, yes, reasonable identification.

Q. In other words, so far as these respective

(Testimony of Douglas Wilkes.)

applications reflected in the practice by both the Western Union and the Postal—you follow the same, do you?

A. Substantially it is the same, yes. [71]

Q. It doesn't matter to the company who presents an application for a money order, but the company does require identification, on the other hand, of the recipient of the proceeds of the money order?

A. Yes.

Q. Is that why the stamp appears on it "Receipt not negotiable?"

A. That stamp "Receipt not negotiable" is placed on a draft after it has been cashed.

Q. That was not on there originally; that is something after it was returned?

A. After it is cashed they just put it on there.

Mr. Rose: That will be all.

Mr. Lucas: Just a couple of questions.

Redirect Examination

By Mr. Lucas:

Q. I direct your attention to Government's Exhibit 20, and ask you if it isn't shown on there that positive identification is waived?

A. Well, identification was waived on this money order.

Q. Now, I show you Government's Exhibit 21, and ask you if it doesn't show thereon that information for test question for identifying payee was indicated as waived or none to be asked?

A. That is true, identification was waived. There was no test question. [72]

(Testimony of Douglas Wilkes.)

Q. Are you familiar with the Postal matters in that regard? I am not, so I will have to leave it up to you.

A. That application is more or less like our own form. An identification on this money order was waived also.

Q. That Postal is Government's Exhibit 22. Now, I show you Government's Exhibit 18, and ask you if positive identification was required in that.

A. No; identification was waived.

Q. How about the letters there "TQR?"

A. That is a designation, the test question was refused. An effort was made to obtain an identification question, a personal question, date of birth or something of the sort, but it was declined by the sender.

Q. Declined by the sender? A. Yes.

Q. I show you Government's Exhibit 19, and ask you if there is any legend or marks on there whereby you can tell whether test questions or identification was waived?

A. Well, identification was definitely waived on the money order. There is no indication of a test question at all.

Mr. Lucas: That is all.

The Court: A test question, just tell me how it works. You said the sender declined the test question?

The Witness: Yes, sir. [73]

The Court: How would that be? Say it again.

(Testimony of Douglas Wilkes.)

The Witness: Your Honor, when an identification is waived on a money order we exercise reasonable care, get documentary evidence; but we always try to as far as we can solicit a personal question that we know only the payee, legitimate payee can answer.

The Court: You get that from the sender?

The Witness: From the sender, yes, sir; such as date of birth, April 21. And it is a pretty good safeguard. Naturally it involves impositions.

The Court: Anything further?

Recross Examination

By Mr. Rose:

Q. That test question is for the protection of the company so you won't pay the money to the wrong party?

A. It is a very good thing where we can get them, to avoid fraudulent payment.

Mr. Rose: That is all.

The Court: I believe that is all.

Mr. Lucas: It is past 4:30, your Honor; I would appreciate it if we can recess until tomorrow morning.

The Court: Are these hours satisfactory to you, Mr. Rose?

Mr. Rose: Your Honor, tomorrow morning I have two petitions for letters, one is a will and one is probate; the court usually convenes over at the probate side at 9:30, [74] and the court permits counsel who are engaged to take their matters up

out of order. However, it is likely that there may be some that may jump in ahead of me, and I was wondering if your Honor would permit me a few extra minutes so I can take the matter up.

The Court: All right. We will adjourn until 10:00 o'clock.

(Whereupon, at 4:35 o'clock p. m., January 16, 1945, an adjournment was taken until 10:00 o'clock a. m., Wednesday, January 17, 1945.)

No. 10989

United States
Circuit Court of Appeals

For the Ninth Circuit.

**JACOB MORRIS DANZIGER, TRINIDAD IN-
TERNATIONAL PETROLEUM, LTD., and
WAKE DEVELOPMENT COMPANY,**
Appellants,

vs.

UNITED STATES OF AMERICA,
Appellee.

Transcript of Record
In Four Volumes
Volume II
Pages 449 to 940

**Upon Appeal from the District Court of the United States
for the Southern District of California,
Central Division**

FILED

FEB 26 1946

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Volume II

Pages 449 to 940

Upon Appeal from the District Court of the United States
for the Southern District of California,
Central Division

Los Angeles, California,

Wednesday, January 17, 1945, 10:00 a. m.

The Clerk: United States vs. Danziger.

Mr. Lucas: Ready for the government.

Mr. Rose: Ready.

Mr. Lucas: Call Mr. Hazelton.

J. ARTHUR HAZELTON,

called as a witness by and on behalf of the Government, having been first duly sworn, was examined and testified as follows:

The Clerk: State your name.

The Witness: J. Arthur Hazelton.

Direct Examination

By Mr. Lucas:

Q. What is your address, Dr. Hazelton?

A. Mantua, New Jersey.

Q. What is your business or occupation?

A. I am a dentist.

Q. Doctor, do you know a man by the name of A. L. Roberts? A. I do.

Q. Do you see him in the court room?

A. He is over on the left.

Q. You are pointing now to the gray-haired man seated over at the left of the court room?

A. Yes.

Q. Known in this action as the defendant Carter? [77]

Mr. Rose: Just a moment. I object to that as

(Testimony of Dr. J. Arthur Hazelton.)

leading and suggestive, and calling for a conclusion and opinion of the witness.

The Court: Objection sustained. Will the defendant Carter please stand?

(A man arose.)

The Court: Is that the man you just referred to as A. L. Roberts?

The Witness: That's right.

The Court: Let the record show that the witness has just identified the defendant Carter as the man he knew as A. L. Roberts.

Q. By Mr. Lucas: When did you first meet Roberts?

A. Personally, I believe in June, 1938.

Q. Had you had any prior communication with him prior to that?

Mr. Rose: May it be understood, your Honor, that—I don't want to interject objections unless it indicates evidence may be sought to go in against the defendants I represent. When that situation arises I do want to object. But may it be understood that when he mentions any of the defendants that I represent, it will be unnecessary for me to object? That is, your Honor will receive that under the theory that you have some of the previous evidence, subject to its being connected up.

The Court: I don't know, Mr. Rose, what he is going [78] to tell and I don't suppose you know.

Mr. Rose: I don't have the slightest idea.

The Court: We are in the same fix. We will see what happens.

(Testimony of Dr. J. Arthur Hazelton.)

The Witness: I had telephone conversations with him first before his personal appearance.

Q. By Mr. Lucas: What did he say to you, and what did you say to him in this telephone conversation?

Mr. Rose: Just a moment. I object to it as calling for hearsay with respect to the defendants, respectively, J. M. Danziger, Wake Development Company and Trinidad Corporation.

Mr. Lucas: It is merely preliminary, and is alleged in the indictment as part of the scheme that was conceived between all of them.

Mr. Rose: I know what they alleged. The only defendants on trial are the ones I interposed the objection for.

The Court: What does the indictment allege?

Mr. Lucas: It alleges they conceived a scheme to defraud; the defendants and all of them made contacts by telephone and otherwise. This is merely a preliminary question to the questions to follow.

The Court: Is this man's name mentioned in the indictment?

Mr. Lucas: Yes, Counts 12 and 13, and also count 17. [79]

The Court: Proceed.

The Witness: This first conversation was regarding Martin Custom Cord Tires, which was then in bankruptcy.

Mr. Rose: I didn't hear it.

The Court: Read it.

(The answer was read.)

(Testimony of Dr. J. Arthur Hazelton.)

Q. By Mr. Lucas: Tell us what he said.

Mr. Rose: I object to it as wholly immaterial and irrelevant to any issue in this case, and hear-say.

The Court: You may answer. Continue.

The Witness: So the tire stock was then in bankruptcy, and Roberts offered to trade the same for this Trinidad International Petroleum. In other words, to give substantial value, one for the other.

The Court: You had some of the tire stock?

The Witness: That's right. 300 shares.

Mr. Rose: Just a moment. I move to strike that on the ground no proper foundation has been laid; and insofar as it seeks to affect Trinidad, there is no foundation.

The Court: Motion denied.

Mr. Rose: Exception.

The Court: Allowed.

The Witness: Par value of the Custom Cord was supposed to be \$5.00, and this offer to trade was supposed to be Trinidad International Petroleum, a unit of stock, and the profit sharing note was to be combined. The value of [80] the stock and the note was around \$8.00; \$3.00 for the stock and \$5.00 for the profit sharing note. In other words, the plan was worked out to exchange Martin Custom Cord, and also Remington Arms stock for the Trinidad International Petroleum, 300 units of each.

Mr. Rose: I move that all be stricken as hear-

(Testimony of Dr. J. Arthur Hazelton.)

say, and a conclusion of the witness, and not responsive to the question, and not binding on the defendants represented by objecting counsel.

The Court: Motion denied.

Mr. Rose: Exception.

The Court: Exception allowed.

Q. By Mr. Lucas: Are you testifying now about the telephone conversation?

A. This is more or less a preliminary——

Q. Are you telling us what Carter said to you on the telephone?

A. His plan was first to make contacts——

Q. Pardon me. Are you talking about what he told you on the telephone or what he told you at a later time?

A. This was at a later time after the trade was made. I will start earlier.

Q. Let's take it, Doctor, in sequence, if we can.

Mr. Rose: Just a moment. May his answer be stricken, then, as not responsive?

Mr. Lucas: It is responsive to the question, if the [81] court please. It is just a little advanced.

The Court: Motion denied.

Mr. Rose: May I have an exception?

The Court: Exception allowed.

Q. By Mr. Lucas: After the telephone conversation did you see Mr. Carter in person?

A. He called the office after two telephone conversations previously.

Q. He called in person at your office?

A. That's right.

(Testimony of Dr. J. Arthur Hazelton.)

Q. And some of the things that you just related from the witness stand occurred at this first personal conversation? A. That's right.

Q. Approximately when was that, doctor?

A. That was in June of 1938.

Q. Now, go ahead and tell us the remaining part of that conversation.

A. He said, that is Roberts, or Carter, the stock was listed on the London Exchange.

Q. What stock?

A. The Trinidad International Petroleum.

Mr. Rose: Just a second. It is very difficult, your Honor, to protect this record in the manner in which these questions are being interposed here. Counsel has told him to go ahead, and there is no foundation laid there. Let me [82] have the state of that last answer, please, Mr. Reporter?

(The record was read.)

Mr. Rose: May it be understood that I am objecting to this entire conversation, your Honor, without the necessity of interjecting the same objections to spasmodic parts of it as they come in?

The Court: So understood.

Q. By Mr. Lucas: Go right ahead, Doctor.

A. As this stock was supposed to be listed on the London Exchange, according to Roberts' conversation with me in my office at that time. Like I said, the value that he said was approximately \$8.00 including the unit of stock and the unit of profit sharing note.

(Testimony of Dr. J. Arthur Hazelton.)

The Court: What is the last word you keep using?

The Witness: Profit sharing note.

The Court: Spell it.

The Witness: N-o-t-e. One share of stock and one share of note.

The Court: That is your eastern pronunciation.

Q. By Mr. Lucas: Can you recall any more of Mr. Carter's conversation——

The Court: What would be a unit, by the way? \$8.00 for what?

The Witness: One unit of stock.

The Court: What do you mean by unit?

The Witness: One share of each. [83]

The Court: What do you mean by each?

The Witness: One unit of stock and one unit of note. The were to be combined for the value of \$8.00.

The Court: Securities of the Trinidad International Petroleum, one share of stock—I will use that word instead of “unit,” is that all right.

The Witness: All right.

The Court: And one profit sharing note?

The Witness: That's right.

The Court: All right.

Q. By Mr. Lucas: The stock was \$5.00 per share, is that what you said, and the note \$3.00?

A. That's right.

Mr. Rose: I object to it as leading and suggestive.

(Testimony of Dr. J. Arthur Hazelton.)

The Court: The objection is overruled. Those were the face values of the stock and the note?

The Witness: According to Roberts.

The Court: Do you know what I mean by "face?"

The Witness: It was written on the face of it.

The Court: Yes.

The Witness: That was written—the note has a par value.

The Court: Par of three?

The Witness: Par of three. And the profit sharing note was supposed to be according to the profits of the company, evidently. [84]

Mr. Rose: I move that be stricken as voluntary and an opinion of the witness, and not purporting to be any part of this reputed conversation.

The Court: Motion is denied.

Q. By Mr. Lucas: Tell us what Mr. Carter said with respect to the value of these stocks and profit-sharing notes, without regard to whatever was said on their face.

Mr. Rose: Object to it on the ground it calls for hearsay, no proper foundation laid. The same is not binding on the defendants represented by objecting counsel.

The Court: He may answer it.

Mr. Rose: May I have an exception?

The Court: Exception allowed.

Q. By Mr. Lucas: Answer the question Doctor.

A. The value was approximately \$8.00.

Q. Have you told us all of the conversation be-

(Testimony of Dr. J. Arthur Hazelton.)

tween you and the defendant Carter at this first meeting in your office?

Mr. Rose: I object to the form of the question on the ground that counsel elects to classify this conversation as a conversation with the defendant Carter. So far as we know we don't know what his name is. As I understand it, this conversation was supposed to be with one Roberts, and inquiring counsel chooses to make a classification.

The Court: He may answer.

The Witness: Other conversations related [85] that he would dispose of the Martin Custom Cord stock to parties in Pennsylvania.

Mr. Rose: Just a second. Your Honor, will you instruct this witness to speak up?

The Court: He is talking pretty plainly, it seems to me.

(The answer was read.)

Q. By Mr. Lucas: What did he say with respect to that?

Mr. Rose: Object to it as irrelevant and immaterial to any issue in this case, and not reputed to be any transaction set forth in the indictment. On the further ground that it is hearsay, irrelevant and immaterial.

The Court: Is there anything in the indictment about the Martin stock?

Mr. Lucas: Yes. All these representations are in there, if the court please.

The Court: He may answer.

Mr. Rose: Will you indicate where it is?

(Testimony of Dr. J. Arthur Hazelton.)

Mr. Lucas: Well, I would have to read all the first four or five pages of the indictment, if the court please. What state are we in in the record?

The Court: You were going to find in the indictment the reference to——

Mr. Lucas: The reference to the T.I.P. stock?

Mr. Rose: We are not discussing that at all. That [86] is not what objection was made to. That conversation is already in. We are talking about some conversation about some stock exchange at some distant place.

Mr. Lucas: Mr. Rose, and if the court please, we have not attempted to set forth each and every particular representation that was made in maybe a two hour conference between the victim and the defendants. We have alleged certain things and said that they were among other representations, and we feel that we are entitled to prove every representation made by any defendant as a part of the scheme to defraud, and that we are not held down in the trial of the case to just those representations which we have set forth.

The Court: I am not going to hold you down. He asked you to show him where it was, and evidently it isn't mentioned.

Mr. Lucas: I misunderstood what I was required to show, your Honor.

Mr. Rose: Regrettably, your Honor, this conversation that is now being related by the witness is not a conversation purportedly had between any defendant now on trial and this witness; it is via a

(Testimony of Dr. J. Arthur Hazelton.)

person who is no longer on trial, or not being tried on these counts, and counsel is now going beyond the allegations and contentions in his indictment which he seeks to charge to the defendants mentioned, including the one who is no longer on trial. [87] I submit this is purely a collateral matter and irrelevant, he can't go beyond the scope of the indictment in the state of the record at present.

The Court: You may continue. What is that Martin Cord?

The Witness: Martin Custom Cord.

The Court: Martin Custom Cord?

The Witness: That's right.

Mr. Lucas: May we have the last answer of the witness read?

The Court: I will tell you. He said he would dispose of the Martin Custom Cord stock to parties in Pennsylvania. That is what you said, isn't it?

The Witness: That's right.

Q. By Mr. Lucas: What else was said on that?

Mr. Rose: Object to it on the ground that it is hearsay, and no proper foundation laid; the same doesn't pretend to relate to any issue regarding the parties on trial.

The Court: Overruled.

Mr. Rose: Exception.

The Witness: This stock, the Martin Custom Cord, was to be disposed of to parties in Pennsylvania, elderly persons that I mentioned before, along with the Remington Arms stock, for the Trinidad International Petroleum, which was 300

(Testimony of Dr. J. Arthur Hazelton.)

units; that is, one share of stock and one note to be exchanged for these securities. Roberts' commission was to be 10 per cent of the notes. In other words, that [88] would have been 30 notes. The others would be transferred to my name from the Wake Development Company. I received the——

Q. By Mr. Lucas: Did you give Mr. Roberts or transfer anything to him at that time?

A. I transferred to him the 300 shares of the Martin stock, and also the Remington Arms stock.

Mr. Rose: It is most difficult, your Honor, to follow this because counsel here, before an answer to an alleged conversation is had therein, he suggests something was given, without propounding a new question, but rather adding on to the antecedent question. I am objecting to this particular question that he gave Roberts any shares of stock on the following grounds, severally: One, that it calls for hearsay and is not the best evidence; that there is no proper foundation laid as to my defendants; that it is hearsay and not matters pertaining or relating to issues now on trial.

The Court: You may continue.

Mr. Rose: May an exception be noted, your Honor?

The Court: Exception will be allowed.

Q. By Mr. Lucas: You said, Doctor, you transferred. What do you mean by that?

A. In other words, you exchange one for the other, the Martin and Remington for the Trinidad International Petroleum.

(Testimony of Dr. J. Arthur Hazelton.)

Mr. Rose: I move that be stricken as a conclusion of [89] the witness.

The Court: Denied.

Mr. Rose: May I have an exception noted?

The Court: Exception allowed.

Q. By Mr. Lucas: Did you personally deliver the Martin Custom Cord and the Remington Arms stock to Mr. Carter or Mr. Roberts?

A. I did.

Q. And now can you tell us how many shares of Martin Custom Cord you handed to him?

Mr. Rose: I object to it as not being binding on the defendants represented by objecting counsel.

The Court: Overruled.

Mr. Rose: May an exception be noted?

The Court: Exception allowed.

The Witness: 300 of Martin and 370 of Remington Arms.

Q. By Mr. Lucas: How many shares of Trinidad International Petroleum stock and notes did Mr. Roberts tell you you would receive for that?

Mr. Rose: I object to it as leading and suggestive, no proper foundation laid, calling for a conclusion and opinion of the witness, and, further, that it is not binding on the defendants represented by objecting counsel.

The Court: Overruled.

Mr. Rose: May I have an exception noted?

The Court: Exception allowed. [90]

The Witness: That was 300 shares, and also 300 notes that were to be exchanged, and also 100 shares

(Testimony of Dr. J. Arthur Hazelton.)
of Communications Research. That is, to round out the value of one side against the other for that exchange.

Q. By Mr. Lucas: Were you to receive the Communications Research, or were you trading that to Mr. Roberts?

A. I was trading that to Roberts.

Q. All right. Later on did you have a further contact with Carter or Roberts at your office?

A. I did.

Q. How long after the first conversation was this second one, now?

A. July, the same year.

Q. That would be, you say, 1938? A. '38.

Q. What did Mr. Carter or Roberts say to you and what did you say to him on that occasion?

Mr. Rose: Object to it on the ground it calls for hearsay, no proper foundation laid, the same is not binding on the defendants on trial.

The Court: Overruled.

Mr. Rose: May an exception be noted?

The Court: Exception allowed.

The Witness: At that time he called again and offered another exchange of the same Trinidad International Petroleum for other stocks that I held at that time. That was later [91] arranged and transferred. In other words, exchanging of the other stocks for more of the Trinidad International Petroleum.

Mr. Rose: I move that be stricken as a conclusion of the witness.

(Testimony of Dr. J. Arthur Hazelton.)

The Court: Denied.

Q. By Mr. Lucas: I show you, Dr. Hazelton, after having supplied opposing counsel with a photostatic copy, a document dated July 6, 1938, and containing on the second sheet thereof a signature, and ask you whose signature that is.

A. That is Roberts.

Q. Where was that signed?

A. I don't know where that was signed. It was received by me through the mail after I asked for an itemized account from him regarding the last transaction.

Mr. Lucas: I ask that this be marked as government's exhibit next in order.

Mr. Rose: Are you offering it in evidence?

Mr. Lucas: I offer it in evidence.

Mr. Rose: Objection is had to this particular offer on the following grounds, severally: One, that no proper foundation has been laid in respect to its execution, and for that matter by whom executed, other than it appears from some unidentified signature on the document. This letter on its face, is a matter involving a transaction with one assertedly A. L. Roberts and this witness. It appears to reflect the transaction personally between those parties, and not any of the defendants now on trial. That the same is hearsay in the sense that it is not a transaction had in the presence or with the knowledge of the defendants on trial. The same is irrelevant, incompetent, and immaterial, and not binding on the defendants on trial.

(Testimony of Dr. J. Arthur Hazelton.)

The Court: It is admitted. [93]

Mr. Rose: May an exception be noted?

The Court: Exception allowed.

The Clerk: U. S. 23.

(The document referred to was marked as Government's Exhibit No. 23, and was received in evidence.)

Q. By Mr. Lucas: I show you Government's Exhibit 23, Doctor, and ask you if in this second conversation in your office with the defendant Carter you had any further business relations with him.

A. This was the last relation until 1940.

Q. All right. Now, directing your attention, then, to this business transaction reflected by Exhibit 23, under date of July 6, 1938, tell us the details of your transaction with the defendant Carter at that time.

A. You mean the one after this one?

Q. The one shown or reflected by that exhibit there.

A. Well, after this transaction was concluded, I was to receive——

Q. First, tell us what the transaction was before we conclude it, will you, Doctor?

A. It was a transaction to exchange this stock here listed for more Trinidad International Petroleum, 700 units of each.

Mr. Rose: Just a moment. I take it counsel is now inquiring, apparently, about some transaction in 1940, from the voluntary statement of the wit-

(Testimony of Dr. J. Arthur Hazelton.)

ness. Or are you still [94] adverting to the '38 transaction?

Mr. Lucas: If you take it that way, Mr. Rose, you take it wrong. I think we are talking about the 1938 transaction.

The Court: Go ahead.

The Witness: This transaction was that these stocks would be exchanged for 700 units of each, that I previously said.

The Court: You have in your hand Government's Exhibit 23?

The Witness: That's right.

The Court: And you are talking about transactions that are discussed in that letter from Mr. Roberts to you, Government's Exhibit 23, which is your second transaction with Mr. Roberts.

The Witness: With Mr. Roberts, this one.

The Court: When you say "this one" you mean Government's Exhibit 23?

The Witness: Yes.

Q. By Mr. Lucas: What stocks did you exchange on that deal, Doctor?

Mr. Rose: Object to it as not binding on the defendants on trial.

The Court: He may answer.

Mr. Rose: May an exception be noted?

The Court: Exception allowed. [95]

The Witness: I will read them:

100 of West Michigan Steel and Foundry;

100 of Missouri-Kansas Pipeline;

(Testimony of Dr. J. Arthur Hazelton.)

100 of Republic Natural Gas;

200 of United Drill "B";

200 of United Drill "B";

100 of Tennessee Products;

200 of Sweet Steel;

100 of Auto Car;

200 of Nu Enamel;

100 of Alabama Mills common.

Q. By Mr. Lucas: What did you get in exchange for that, did you say?

Mr. Rose: I object to it as calling for a conclusion of the witness, and no proper foundation laid.

The Court: You may answer.

The Witness: 700 units of Trinidad stock and notes, of which 100 was to be transferred to Roberts' name, and also 100 of the notes.

Q. By Mr. Lucas: What did Mr. Roberts say about transferring this 100 shares of the stock and 100 shares of the Trinidad notes?

Mr. Rose: Object to it on the ground that no proper foundation has been laid, and the same is not binding on the defendants on trial.

The Court: You may answer. [96]

Mr. Rose: May an exception be noted?

The Court: Exception allowed.

The Witness: He said I was to keep them for

(Testimony of Dr. J. Arthur Hazelton.)

him until he called to get them, which he never did.

Q. By Mr. Lucas: What arrangements, if any, did you have with Roberts in this conversation about his ownership of them?

A. All that I received I was to communicate and give all conversations or information to a party by the name of Phelps in New York, to send all letters there, and that I was to—and any conversations or any information that I needed I was to get in touch with Wake Development Company; and I sent several letters asking for information as to their values and earnings and so forth, which were never answered.

Mr. Rose: I move that all of the latter be stricken as voluntary and not responsive to the question.

The Court: Denied.

Q. By Mr. Lucas: At this time and on this exchange did Roberts say anything with regard to the market value of these Trinidad notes and shares?

Mr. Rose: Object to it as leading and suggestive.

The Court: Overruled.

A. Market value, according to his conversation, was that they were listed on the London Stock Exchange, having oil producing properties in the Island of Trinidad, which [97] the British Government, of course, took all the oil, or at least they had a concession to the British Government to dispose of the oil in that manner.

(Testimony of Dr. J. Arthur Hazelton.)

Q. By Mr. Lucas: Was the price or value of the stock discussed with relation to British pounds or British denomination of money?

Mr. Rose: I object to that as leading and suggestive, in addition to the fact it is hearsay and no proper foundation laid, and not binding on the defendants now on trial.

The Court: Overruled.

Mr. Rose: May an exception be allowed?

The Court: Allowed.

A. It was quoted in the English equivalent in pounds.

Q. By Mr. Lucas: What did you say? It was quoted?

A. It was quoted. He gave me a value in the English pound. At that time it was \$4.83. That was previous to the war, and approximately the value of the—of course, it fluctuated between eight and ten dollars.

Q. That is what Mr. Roberts said?

A. That's right.

Q. Where did you get the name and address of Wake Development Company, Doctor?

A. That was the name given to me by Roberts, for the stock that was sold or exchanged was to be sent to me from the Wake Development Company in California.

Q. And Mr. Roberts gave you that address, did he, [98] here in Los Angeles?

A. That's right.

Mr. Lucas: At this time may the record show

(Testimony of Dr. J. Arthur Hazelton.)

that I am showing counsel for the defendant several sheets of paper that came into our possession from Mr. Danziger in the course of the investigation, and he is examining them before I offer them and show them to the witness.

Mr. Rose: Will your Honor bear with me while I look this over?

Mr. Lucas: Are you comparing the exhibits with the photostats?

Mr. Rose: Yes, I am attempting to see if I have copies of these.

Mr. Lucas: We now offer in evidence as the government's exhibit next in order several second sheets, return Post Office receipts, letters, and other matters to and from Dr. Hazelton and Wake Development Company, as one exhibit, if your Honor please, these documents having been supplied to the Securities and Exchange Commission by Mr. Danziger.

Mr. Rose: Counsel desires to indicate to the court, in view of the rulings on the oral testimony of this witness and the omnibus inquiry respecting communications and such collateral matters, it appears certain, your Honor, that these proffered documents must necessarily become the subject of your Honor's attention in connection with the declarations of the witness. I am, however, in this dilemma, your Honor, [99] as I inspect these papers. There are some of them that bear no signature, and it is difficult to accept my speculation and surmise as to the author of some of these documents. It

(Testimony of Dr. J. Arthur Hazelton.)

seems to me, your Honor, that since the theory of counsel, opposing counsel, in offering these documents, is that these represent communications between this witness and certain addressees and persons replying thereto, that some foundation should be laid preliminary to my interposing an objection to these copies, as to what has happened to the original documents addressed to this witness; and I ask that your Honor require that additional ground so I can interpose any objection, so your Honor will not feel that I am merely quibbling about technicalities here.

Have you got the originals here?

Mr. Lucas: Some we have and some we haven't.

Mr. Rose: In any event, your position is that these communications were sent and received by the respective parties?

Mr. Lucas: The government's position is this, your Honor, very tersely and easily stated: that we received those from Mr. Danziger. And with respect to their admissibility, I refer the court to the case of *Luke vs. United States* in 84 Fed. (2d) 711, where the court said:

"Appellant throughout his brief attacks these sheets"—there were certain bookkeeping sheets—"and the introduction of evidence [100] regarding them as though they had been offered as the books of account of others, and must therefore come accredited under the book rule governing the introduction by a party of his own books in his favor, or of the books of others against him."

(Testimony of Dr. J. Arthur Hazelton.)

The Court: Why don't you put these in when you put the man on the stand who got these from Mr. Danziger?

Mr. Lucas: I don't think counsel challenges that we got them in the manner we say we did.

The Court: I don't know whether he does or not. [101]

Mr. Rose: As I indicated to your Honor, I am going to try to adhere to that position. We are trying this case before your Honor as a judge, without the jury here, and I am not interested in presenting technical objections. In other words, as counsel informs me, I know that the files on Wake Development and Trinidad, and so forth, were in great mass turned over to Mr. Mainland, as I understand it, so we are not questioning the fact, your Honor. I want to make that clear, that in the course of this inquiry respecting the activities of Wake and Trinidad, and so forth, that all or practically all documents and files relating to any of their transactions were voluntarily turned over and lodged with them, and remain in their possession at the present time.

The Court: What is your last number, Mr. Clerk?

Mr. Rose: My difficulty here, your Honor, is this:—

The Clerk: This will be 24, your Honor, if it is admitted.

Mr. Rose: I didn't want your Honor to think we are quibbling about the mere technicalities as

(Testimony of Dr. J. Arthur Hazelton.)

to whether the documents had come into their possession.

The Court: Mr. Rose, I don't think anything about it at the present state. I have in my hand here what, if given a number, will be Exhibit 24. If you concede, as Mr. Lucas claims, that these were given to the government by Mr. Danziger, why, I will admit them. If you don't, why Mr. [102] Lucas will have to put someone on the witness stand——

Mr. Rose: As I point out to your Honor, I am not going to waste the time of this court in raising a fallacious contention. We concede that, as for all papers, they were turned over——

The Court: Just a moment. You will have to be more specific, so far as I am concerned.

Mark this for identification No. 24.

(The document referred to was marked as Government's Exhibit 24, for identification.)

The question I am interested in now is do you concede what is now being marked for identification Exhibit 24 was turned over to the government by Mr. Danziger?

Mr. Rose: Yes, your Honor.

The Court: Very well.

Mr. Rose: What I am talking about is this: Insofar as they relate and pertain to a communication by this witness with the addressees, I am not offering any objection to their reception in evidence. On the other hand, as I say, your Honor, there are some of them here—for example, one dated July

(Testimony of Dr. J. Arthur Hazelton.)

6th, that I can't by inspection of the same ascertain who the author of that exhibit is.

Mr. Lucas: July 2nd, 1938, addressed to Hazelton?

Mr. Rose: To Hazelton. Now, this is the one I wanted.

Mr. Lucas: Some we have the original of and some we have not. [103]

Mr. Rose: In any event, I will ask that this one be substituted for the unsigned copy. Is that clear, your Honor? I want to clear it up so your Honor can ascertain whose communication it is.

Mr. Lucas: No, your Honor. I don't want to be captious about it, but I would like to put in my testimony in my own orderly way. We have received, and it is now conceded that we procured the exhibit now offered from Mr. Danziger. I would like to have it go in evidence. Those are certain duplicates. In some instances we have the originals of them, and obtained them from the witness now on the stand, and I will have him identify them in an orderly way, in sequence, and they will go in in that manner.

Mr. Rose: Here is my point, your Honor. Let the record clearly indicate that I was addressing the Court in respect to a certain document addressed, seemingly, to this witness, under date of July 2nd, 1938, and the copy merely has, "Very truly yours". There is no letter-head on it. It is manifestly a carbon copy. I had a look at the document in the hands of opposing counsel, and find

(Testimony of Dr. J. Arthur Hazelton.)

the original of this document, and I ask, in respect to that particular part of the offer, that the original be substituted in lieu of the carbon copy.

The Court: Not substituted; be put in in addition?

Mr. Rose: Yes, your Honor.

The Court: 24 is admitted. [104]

(The document referred to was marked Government's Exhibit 24, and was received in evidence.)

Mr. Rose: Have you the original of the instrument forming a part of the proffered Exhibit 24, dated July 15?

Mr. Lucas: 1938?

Mr. Rose: Yes, sir.

Mr. Lucas: I have.

Mr. Rose: May that, similarly, be presented to the Court as a part of this exhibit?

Mr. Lucas: In due time I will present that to the Court, Mr. Rose.

The Court: All exhibits that you have will be put in in addition?

Mr. Lucas: Yes.

Mr. Rose: Very well, your Honor.

Q. By Mr. Lucas: Dr. Hazleton, I show you a letter on the stationery of Wake Development Company, dated July 2nd, 1938, addressed to you at your home town in New Jersey, and signed, "J. M. Danziger, President," and I will ask you if you received that through the mail in response to any communication addressed to Wake by you?

(Testimony of Dr. J. Arthur Hazelton.)

A. I did.

Q. I show you next a letter on the stationery of Wake Development Company, dated July 15, 1938, signed, "J. M. Danziger, President," and ask you if you received that in the [105] mail——

Mr. Rose: What is the date, counsel?

Mr. Lucas: July 15, 1938.

Q. By Mr. Lucas: —if you received that in the mail from Wake in response to any inquiry by you? A. I did.

Q. I show you next, under date of July 27, and on the stationery of Wake Development Company, a letter addressed to you and signed, "Wake Development Company, A. Faulkner, Secretary," and ask you if you received that in the mail in response to an inquiry by you? A. I did.

Mr. Lucas: I offer these three documents in evidence as one exhibit, if the Court please, and ask permission at this time, after they are marked and ruled upon, to read them into the record.

The Court: They are admitted. Here are the originals, Mr. Rose.

Mr. Rose: Yes, your Honor. I was trying to get those substituted for the copies myself.

The Court: They are coming in in addition.

Mr. Rose: Coming in as separate exhibits, your Honor?

The Court: As one exhibit.

The Clerk: U. S. 25.

(The document referred to were marked as

(Testimony of Dr. J. Arthur Hazelton.)

Government's Exhibit 25, and were received in evidence.) [106]

Mr. Rose: July 2nd is No. 25, or all three of them?

The Court: All three of them are coming in as one exhibit.

You don't need to read them in the record. Is that your practice?

Mr. Lucas: Some I do, and some I don't. Some I want to read into the official transcript, if the Court please.

The Court: Why do you do that?

Mr. Lucas: It makes a more convenient record in the event of an appeal. Some of these matters would go up as photostatic records that are not read into the record——

The Court: I want to do whatever your practice is; but it adds, also, to the burden of the defendant if he has to get a transcript.

Mr. Lucas: That is why we forego not reading all of them, because as I say, in preparation of a record on appeal the official transcript, from which a bill of exceptions is taken, wouldn't show an exhibit, the contents of an exhibit; it would only show the reference to the exhibit.

The Court: It depends on how lazy the judge is. The Appellate judge reading the record, if he is too lazy to look for the exhibit, he won't look.

Mr. Lucas: It also depends on the laziness or indifference of counsel in preparing the bill of exceptions.

(Testimony of Dr. J. Arthur Hazelton.)

Mr. Rose: Let me state my position in regard to that. I am quite convinced that any documentary evidence of any [107] character presented here is going to be perused carefully and considered by your Honor. On the other hand, if counsel's idea is to get in the fragments of a document, having offered the whole sheaf of correspondence here as Exhibit 24, I necessarily will have to resort to the business of reading the rest of it. I submit that under the new rules, in respect to appeals—and I am not speaking of appeals now with the idea that there is going to be one—but the rules have been changed now, and exhibits are referred to by reference. We don't have to read them into the phonographic record. But if he reads a part of it and wants to create an atmosphere in this state of the record, I necessarily, in behalf of the defense, will be obliged to read every one of the remaining documents and anything he leaves out. And I thought he ought to be apprised of this intention, because it is absolutely not necessary. I know your Honor is going to read it all, and that is the purpose of trying to expedite these things without him taking the time to read it; but I assure opposing counsel if he reads one paragraph I will read the remainder of the entire record.

The Court: I will tell you what you gentlemen can do. You can have your own three-ring ericus. I am not going to sit here while a document is being read into the record, either in whole or in part; but after this is over, if you haven't been able to

(Testimony of Dr. J. Arthur Hazelton.)

agree whether it should be read into the record or not, you can take the reporter by yourself and [108] read until your hearts are satisfied about it. But you are not going to take my time with it.

Mr. Lucas: That will be a very happy arrangement.

The Court: There will be none read in now.

Mr. Lucas: If we can have the convenience at our time.

Mr. Rose: I am not interested in that; I am glad your Honor is taking that view. I take the position your Honor is going to read the exhibits, and it is addressed to your Honor.

The Court: I am going to read them as they come in here.

Mr. Rose: That is what I had in mind.

The Court: Go ahead. There are not going to be any read into the record now.

Mr. Lucas: Thank you, your Honor.

Q. By Mr. Lucas: Dr. Hazleton, did you receive any shares of stock or preferential profit sharing notes from the Wake Development Company? A. I did.

Mr. Rose: Pardon me. I was talking to the defendant, and I didn't hear the question.

(The question and answer were read.)

Q. By Mr. Lucas: Have you any of them now in your possession? A. I do.

Q. Have you them on you at the present moment? A. No; I sent them to you. [109]

(Testimony of Dr. J. Arthur Hazelton.)

Q. Have we them here, supposedly, at the counsel table? A. Yes.

Mr. Rose: While you are looking for that, Mr. Lucas, have you any more originals that you haven't offered of Exhibit 25?

Mr. Lucas: I don't know at the present moment. If I do I will dig them up for you.

Q. By Mr. Lucas: Have you in your pocket, at all, Doctor, any notes or certificates or anything with you?

A. No, I didn't bring any. Numbers I have sent to the S.E.C.

Mr. Rose: I might say, Mr. Lucas, in the interest of saving expense, that no photostats of these need be taken.

Mr. Lucas: You are thoroughly familiar with the terms of that?

Mr. Rose: No, frankly, I have never read it; they are too voluminous.

Mr. Lucas: There are others available to you?

Mr. Rose: I will take the time to read it, but I won't take the time now.

Are these instruments referred to in the correspondence of evidence? If they are, we can probably have a stipulation on it.

Mr. Lucas: Certificate B 193 is referred to.

Mr. Rose: Mr. Mainland says they are; so in the [110] interests of time, your Honor, we will stipulate that these particular instruments to which reference is now being made are the instruments

(Testimony of Dr. J. Arthur Hazelton.)

referred to in the communications that have been received as part of Exhibit 24.

The Court: Give them numbers, Mr. Clerk.

Mr. Lucas: With the amendment that they are part, perhaps not all referred to.

Mr. Rose: Wait a minute; hold it. I don't know about this, we haven't got any of this (indicating a paper.)

I will have to withdraw that offer by reason of there appearing something on here, your Honor, which doesn't constitute a part of the certificate.

Clear that up and maybe we can go back to the stipulation.

Q. Mr. Lucas: I will show you what purports to be a preferential profit sharing note of Trinidad International Petroleum, Serial No. C109, for 300 units, and ask if that is one of the securities which you received from Wake through your dealings with Mr. Roberts?

Mr. Rose: Just a moment. May I have the question, please?

(The question was read.)

Mr. Rose: I object to the form of the question, your Honor, merely by reason of the addenda "by your dealings with Mr. Roberts".

The Court: He may answer. [111]

A. I did.

Mr. Lucas: I offer that as government's exhibit next in order.

The Clerk: 26.

Q. By Mr. Lucas: I show you preferential

(Testimony of Dr. J. Arthur Hazelton.)

profit sharing note of Trinidad International Petroleum——

The Court: I haven't ruled.

Mr. Lucas: Pardon me, your Honor.

The Court: That is admitted.

(The document referred to was marked as Government's Exhibit 26, and was received in evidence.)

Q. By Mr. Lucas: (Continuing) Trinidad International Limited, Serial No. C113 for 100 units, and ask you from whom you received that.

A. That was received from Wake.

Q. I direct your attention, Mr. Witness——

Mr. Rose: Just a minute.

Q. —to the back of that document. There is attached to the certificate, by a stapling device, a document that bears this legend, "Irrevocable Stock Power", and starts off, "Know All Men By These Presents"; was that so-called irrevocable stock power attached to the certificate at the time you received it from Wake? A. No.

Q. When and where was that attached, if you know? A. I don't know. [112]

Q. Do you recall giving this document, "Irrevocable Stock Power" to anyone?

A. I gave Roberts a power of attorney.

Q. You gave Roberts a power of attorney, is that what you mean?

A. That's right, but I never saw that document attached to this.

(Testimony of Dr. J. Arthur Hazelton.)

Q. Is this the power of attorney you say you gave Roberts? A. No.

Q. I direct your attention to, apparently, a signature or purported signature, "A. L. Roberts"; do you recognize that signature?

A. It corresponds with the one I have seen on previous letters Roberts sent me.

Q. But you know nothing of this document?

A. No.

Mr. Rose: Now that the record may be clear, will your Honor give that so-called power of attorney, which is admittedly a document that is attached to the back of this certificate, Serial No. 113, for 100 units, an identification number, so that the record will be clear that this witness has not seen this and doesn't know whose instrument it is, or in what manner it became attached to this particular paper?

The Court: What number will that be, for identification?

The Clerk: 27. [113]

The Court: 27.

(The document referred to was marked as Government's Exhibit 27, for identification.)

Mr. Rose: Your Honor, I have received a note here asking me to call my office. Apparently that is in regard to some unfinished probate matter that I left in one of the departments, so I wouldn't be tardy here, your Honor. I think it is past time for the recess, so may we have the recess now so I can make the call?

(Testimony of Dr. J. Arthur Hazelton.)

The Court: Yes.

(A short recess was taken.)

Q. By Mr. Lucas: Now, Dr. Hazleton, I show you a stock certificate of the Trinidad International Petroleum Limited, being No. B-195, and ask you if you received that stock certificate from the Wake Development Company?

A. I did.

Q. With reference to the irrevocable stock power on the back thereof, you have no recollection concerning how that got on there?

A. No, I never saw that before.

Mr. Lucas: Very well. We offer this as government's exhibit in regular order, for identification.

The Clerk: 28.

(The document referred to was marked as Government's Exhibit 28, for identification.)

The Court: Are you going to tie that stock power up [114] later?

Mr. Lucas: That will be tied up by another witness.

The Court: Subject to their being tied up, they will be identified and admitted.

Mr. Rose: Your Honor is admitting it?

The Court: Yes.

Mr. Lucas: I will tie it up.

Mr. Rose: Then I will have to object to it, your Honor, on the ground that it affirmatively appears that there is a document attached to the cer-

(Testimony of Dr. J. Arthur Hazelton.)

tificate which was received by this witness, which, admittedly, was not attached.

The Court: Government counsel has just agreed to explain that by another witness, and I have admitted it subject to its being connected.

Mr. Rose: They are two separate instruments. I have no objection to the stock certificate going in, but I certainly object to something being attached to the certificate because it is not a part of it.

The Court: If Mr. Lucas doesn't explain that satisfactorily by another witness, we will take it off.

Mr. Lucas: I want to call your Honor's attention to Exhibit 24; it will explain that in its entirety; and I have, in addition to that, another witness to testify to it; but Exhibit 24, the Danziger file, the reading by the Court of that file will show that the correspondence itself connects up the attached paper. [115]

Mr. Rose: Will you indicate what part of the correspondence relates to the attached paper?

Mr. Lucas: Well, I don't like, at this time, to go into that. If the Court reads it and tells me that he is not satisfied that it is properly connected, I will go into the matter more extensively with the other witness.

The Court: Complete your objection, Mr. Rose.

Mr. Rose: I am going to object to the offer on the ground that the offer consists of two unidentified or correlated documents admittedly not one

(Testimony of Dr. J. Arthur Hazelton.)

received by reason of any of the correspondence which constitutes a part of Exhibits 24 and 25; and that the same has no proper foundation laid; and that the same is irrelevant and immaterial, and manifestly not binding on the defendants on trial.

The Court: The documents as offered are admitted, subject to the power of attorney being connected up by another witness.

Mr. Rose: May I note an exception to that, your Honor?

The Court: Exception is allowed.

The Clerk: Does that include 27, also, your Honor?

The Court: That's right.

(The documents referred to were marked as Government's Exhibits 27 and 28, and were received in evidence.)

Q. By Mr. Lucas: Doctor, I think you said in some part of your previous testimony something about Communications [116] Research Incorporated stock, stock that you gave or transferred or handed to Mr. Roberts; do you recall that?

A. That was in the first transaction, a part of it, for the exchange of the Martin and Remington Arms for the Trinidad International Petroleum. Roberts said that Communications Research had a value of \$9.00 per share, and that was supposed to be a part of the transaction of the original. I was to receive 300 shares of Trinidad, and also 100 of Communications Research——

Mr. Rose: Just a minute. I am not altogether

(Testimony of Dr. J. Arthur Hazelton.)

certain that this is not a repetition of some testimony given by the witness previously. I am going to move to strike it, though, to be certain, on the ground it is hearsay, no proper foundation laid, and not binding on the defendants on trial.

The Court: Motion is denied.

Mr. Rose: May an exception be noted?

The Court: Exception is allowed.

Q. By Mr. Lucas: In any of the transactions between you and Mr. Roberts, about which you have already testified, was anything said by either of you concerning any commission to be allowed?

Mr. Rose: I object to it as leading and suggestive.

Mr. Lucas: The question may be answered yes or no, your Honor.

The Court: He may answer. [117]

A. Roberts was to receive a commission of approximately 10 per cent of the shares of the Trinidad International Petroleum.

Q. By Mr. Lucas: How was the commission to be paid? In cash or in stock?

A. It was to be paid in stock.

Q. 10 per cent of the stock you were receiving?

A. Of the 300 shares, that's right

Q. And was that same arrangement carried over into the 700 share deal?

Mr. Rose: I object to it as leading and suggestive, tantamount to testimony on the part of inquiring counsel. We are having our difficulties, your

(Testimony of Dr. J. Arthur Hazelton.)

Honor, without resorting to suggesting matters to the witness.

The Court: What was the commission deal? Was there a commission deal?

The Witness: Roberts was to receive 10 per cent of the stock in his name.

The Court: What stock?

The Witness: Trinidad International Petroleum.

The Court: In what deal or deals?

The Witness: On the first deal of the 300 shares. In other words, that would leave 270 in my name and 30 in his name.

The Court: How about any other deals?

The Witness: In the latter deal he was to receive 10 [117] per cent of the 700 shares. That would make I was to get 600 and he was to get 100.

The Court: 10 per cent of 700 is 70.

The Witness: I said of the first one was approximately 10 per cent; but of the second one it was 100 in Roberts' name and 600 in my name.

Q. By Mr. Lucas: Did that arrangement hold true with regard to the so-called profit sharing notes?

Mr. Rose: I object to the form of the question as leading and suggestive.

The Court: You may answer it.

A. It did not.

Q. By Mr. Lucas: All right. Did you ever, after then, hear from Carter or Roberts again?

(Testimony of Dr. J. Arthur Hazelton.)

A. The next time I heard from him was in March of 1940.

Q. How was that communication made? By telephone or letter or personal visit?

A. Personal visit.

Q. And where did he visit you?

A. My office in Mantua.

Q. Your office in Mantua. Was that preceded, did you say, by any telephone conversations, or not? A. No.

Q. All right. What did he say to you and what did you say to him at that time? [119]

Mr. Rose: Now, your Honor, I am objecting to this on the ground that no proper foundation has been laid; the same is hearsay; that the same is incompetent and not binding on the defendants on trial.

The Court: He may answer.

Mr. Rose: May an exception be noted, your Honor?

The Court: Exception allowed.

A. At that time Roberts called at the office, it was in the afternoon, and the conversation was as follows: that they were going to form a syndicate to dispose of the profit sharing notes and the stock; it was to include, I believe, 1200 units all told. At that time he said he had to personally contact the parties in California, and then from there he had to come back to New York, and then he was going to Miami, and then to Trinidad to confirm the sale which, of course, was supposed to have a dead

(Testimony of Dr. J. Arthur Hazelton.)

line, provided he got these 1200 units together. The value that he placed upon it at that time was approximately thirteen dollars and a half. That was to include one share of stock and one unit. One was not to be good without the other.

Q. That is, one share of stock and one——

A. Unit had to be together.

Q. And one note?

A. That's right.

Q. Constituted a unit?

A. That's right. [120]

Q. Constituted a unit?

A. That's right.

Q. And that was worth how much?

A. At that time he said around \$13.50.

Q. What else did he say?

A. He said he had to make this personal contact himself. Of course, he was short on funds and it would take seven or eight hundred dollars to do that. It was finally agreed that I advance him the money to finance the so-called trip, for which I gave him a cashier's check of \$300.00, and money orders for the rest, postal money orders.

The Court: Seven hundred all told?

The Witness: Yes.

Q. By Mr. Lucas: I show you——

Mr. Rose: What is the date of that?

Mr. Lucas: Three-five-forty.

Q. By Mr. Lucas: I show you, Doctor, a cashier's check No. 2619, Mullica Hill, New Jersey, issued by the Farmers National Bank of Mullica

(Testimony of Dr. J. Arthur Hazelton.)

Hill, for the sum of \$300.00, and ask you if that is the check to which you refer?

A. It is.

Mr. Lucas: I now offer this in evidence as government's exhibit next in order.

Mr. Rose: I object to it on the ground no proper foundation has been laid; the same is incompetent as to the defendant J. M. Danziger and not binding; that it is [121] incompetent as to the defendant Trinidad International Petroleum Corporation on the ground there is no proper foundation.

The Court: Admitted.

Mr. Rose: May an exception be noted?

The Court: Exception allowed.

The Clerk: 29.

(The document referred to was marked as Government's Exhibit 29, and was received in evidence.)

Q. By Mr. Lucas: Do you remember any conversation with Mr. Roberts as to how you were to transmit this check to him?

A. This check was to be forwarded to him, to the Wake Development Company, which I sent in an envelope with the Communications stock in another envelope inside of that.

Q. Will you explain that in a little more detail?

A. The payment was to be made in the Wake Development Company, the check was \$300.00, it was a cashier's check which I got made in Roberts'

(Testimony of Dr. J. Arthur Hazelton.)

name, and also four postal money orders for \$100.00 each. Now, he——

Q. What did you do with those?

A. They were sent, the cashier's check was sent to the Wake Development Company in California.

Q. Along with what you said—mentioned something a while ago?

A. Along with another envelope containing the [122] Communications Research stock, which he was to dispose of in this transaction.

Q. I think you said something about the \$300.00 note addressed to Roberts, I mean the \$300.00 cashier's check, in an envelope addressed to Roberts on the inside of the other; is that what you said?

A. The \$300.00 check was to be sent to the Wake Development Company in care of Roberts. Inside of that envelope was another envelope containing the 100 shares of Communications Research stock.

Q. Did you after that receive any communication from Wake Development Company concerning those shares of stock?

Mr. Rose: That calls for a conclusion of the witness and not the best evidence. Have you a document? Fine.

Mr. Lucas: Haven't you got a copy of that?

Mr. Rose: I have no photostat of that.

Q. By Mr. Lucas: I show you, Dr. Hazelton, a letter under date of March 7, 1940, addressed to you in New Jersey, signed "Wake Development Company by J. M. Danziger," and ask you if you

(Testimony of Dr. J. Arthur Hazelton.)

received that in response to a communication from you? A. I did.

Mr. Lucas: We offer that as government's exhibit next in order, if the Court please.

The Court: Admitted.

The Clerk: U. S. 30. [123]

(The document referred to was marked as Government's Exhibit 30, and was received in evidence.)

Q. By Mr. Lucas: Dr. Hazleton, can you recall anything further that was said by Mr. Roberts concerning this Trinidad deal?

A. Roberts said because of the so-called pressing time limit he had to contact the parties concerned—I was skeptical about the affair, so I——

Mr. Rose: I move that be stricken as not responsive to the question; it is a voluntary statement.

Q. By Mr. Lucas: Never mind your skepticism, Doctor. Just what Mr. Roberts said.

A. He said he would have to contact parties in California and arrange to pick up the required number of units to complete this deal, and also come back to New York and flying on down to Trinidad. I asked for a verification of the fact and I received a letter from him, which I made a copy, explaining the details of that transaction. The deal was to be with a Mr.——

Q. Go ahead, Dr. Hazleton. The deal——?

A. The deal was to be made with a Mr. Stanley,

(Testimony of Dr. J. Arthur Hazelton.)

I believe, I think of the Royal Oil Industry of Trinidad, presumably, and in this letter——

Mr. Rose: May the term “presumably” be stricken?

Mr. Lucas: I will stipulate it may be stricken.

The Court: Stricken. [124]

A. (Continuing): The letter contained that he knew a Mr. George Paddleford of the Wake Development Company——

Mr. Rose: Just a moment. I move that be stricken as a voluntary statement, and is not responsive to any question, and a conclusion of the witness, not the best evidence, in addition to the fact that no proper foundation is laid.

Mr. Lucas: That much I will agree, where the witness said the letter said he knew Dr. Paddleford, may be stricken.

Q. By Mr. Lucas: What did——

Mr. Rose: Just a minute. There hasn't been a ruling on the motion or stipulation.

The Court: Start over again.

Q. By Mr. Lucas: What did Mr. Carter say, if anything? And, Doctor, please confine your remarks to what he said and what you said to him.

A. He said that this deal had to be transacted through parties in California, namely, the Wake Development Company, and he was to fly there to complete the deal, and he said it would be a hard matter to pick up the profit sharing notes, to combine with the stock certificate, and one wouldn't be acceptable without the other, to conclude that

(Testimony of Dr. J. Arthur Hazelton.)

1200 unit deal. And as I mentioned before, I demanded more definite proof of this trip, which I mentioned in the past letter.

Mr. Rose: Just a second. May I have the latter part of it read, "as I said before?"

(The record was read.) [125]

Q. By Mr. Lucas: All right. When you demanded this additional proof, what did Carter say?

A. Carter gave me a copy of a letter pertaining to the deal.

Q. Now, Doctor——

Mr. Rose: Just a moment. I move that be stricken as not the best evidence, as a conclusion of the witness.

Mr. Lucas: I will stipulate that it may be stricken.

Q. By Mr. Lucas: What did Mr. Carter say or show to you?

A. He showed me this letter concerning the deal.

Q. He showed you a letter?

Mr. Rose: I move that everything except he showed him a letter, subject to the objections I heretofore interposed, be stricken.

The Court: Motion denied.

Mr. Rose: May an exception be noted?

The Court: Exception allowed.

Q. By Mr. Lucas: Did you read the letter?

A. I did.

Q. What did you say to Carter with respect to the letter?

(Testimony of Dr. J. Arthur Hazelton.)

Mr. Rose: I object to it on the ground it is hearsay and no proper foundation laid, and not binding on the defendants on trial.

The Court: Overruled. [126]

Mr. Rose: Exception noted?

The Court: Allowed.

A. I told Carter that I agreed to forward the necessary money for the trip.

Q. By Mr. Lucas: What did you say to Carter with respect to that letter which he showed you?

A. I told Carter that I didn't think much of the deal.

Q. Did you keep the letter that he gave you?

A. I made a copy of that letter and I sent the original letter back to him at a New York address.

Mr. Lucas: Let the record show that I have shown to counsel a letter which he is examining.

Q. By Mr. Lucas: I show you now, Dr. Hazelton, a document, and ask you in whose handwriting it is.

A. It is in mine.

Q. And is that the copy of the letter, which you said you made, the original of which you sent back to Mr. Carter at the New York address?

A. It is.

Mr. Rose: Just a moment. I move the answer be stricken so I can interpose an objection preceding the answer.

The Court: State your objection.

Mr. Rose: I object to the question on the fol-

(Testimony of Dr. J. Arthur Hazelton.)

lowing grounds, severally: One, that this is an instrument purportedly made by this witness——

Mr. Lucas: May I point out, counsel, if the answer is [127] stricken that isn't in the record as yet.

The Court: Go ahead and state your objection, Mr. Rose.

Mr. Rose: This document is, purportedly, a copy of some unidentified document, which document purports to bear signature and reference to several persons, among which are some of the defendants on trial; that the same is not the best evidence, is hearsay; it manifestly cannot be binding on the persons on trial, for the reason that there is no foundation of any character or description to show that such communication ever existed or was in being with any, even, implied knowledge of any of the defendants on trial.

The Court: Let me see the letter.

(The document was handed to the Court.)

The Court: Was the letter, of which you say this is a copy, on a business letter-head?

The Witness: It was on plain stationery.

The Court: It wasn't on a business letter-head?

The Witness: No.

Mr. Lucas: Before your Honor rules, I would like to be heard on the theory on which the government is offering it.

The Court: I am not going to read it at present. I will hear you.

Mr. Lucas: The government's position is this:

(Testimony of Dr. J. Arthur Hazelton.)

That the witness will testify that he made a copy, and has already testified that he sent the original, of which this is a copy, back to Mr. Carter in New York. Now, it is the [128] government's theory that this is an even higher form of evidence of the representations made at that time by the defendant Carter, and we are offering it as a representation made by Carter. We consider that it is a higher form of testimony than an oral representation would be, because when a witness speaks from his memory or recollection of what a person said to him, it is obvious that he is only speaking from his memory, and his testimony, therefore, its value and weight is gauged by his memory.

The Court: Do you expect to put Carter on the witness stand?

Mr. Lucas: Yes.

The Court: The letter might better come in at that stage of the case. I will lay it aside for the present.

Mr. Lucas: May it be marked for identification?

The Court: Yes, it may.

Mr. Lucas: Please mark it for identification.

The Clerk: 31.

(The document referred to was marked as Government's Exhibit 31, for identification.)

Mr. Lucas: May I say this, your Honor, then? The witness we have on the stand——

The Court: You won't need him. He has identified it. He won't need to stay on that account.

(Testimony of Dr. J. Arthur Hazelton.)

Mr. Lucas: Just bear with me a moment.

The Court: He says this is a copy of a letter he copied [129] from an original that Roberts showed him, written on a piece of plain paper. I assume you are going to put Carter on the stand and ask him about the same thing.

Mr. Lucas: Yes. I was just trying to see if he could testify about all the things I would want from this witness. May I repeat the question, the answer to which was stricken?

Q. By Mr. Lucas: You did make a copy of that letter, and this is the copy that you made?

Mr. Rose: I object to that as leading and suggestive, and it calls for a conclusion and opinion of the witness, and not the best evidence.

The Court: He already said that he did, two or three times.

Mr. Lucas: I didn't know whether that answer was stricken or not, your Honor. We offer this, and it is marked——

The Court: I won't rule on the admissibility. It may be marked for identification at this time.

The Clerk: 31, for identification.

The Court: I guess we will quit now. I have to leave promptly at 12:00. We will resume at 2:00 o'clock. Is that the arrangement?

Mr. Lucas: Yes, your Honor.

The Court: Recess until 2:00.

(Whereupon, at 12:00 o'clock noon, a recess was taken until 2:00 o'clock p. m.) [130]

Los Angeles, California,

Wednesday, January 17, 1945, 2 P. M.

The Court: All right, Mr. Lucas.

Mr. Lucas: Dr. Hazleton, resume the stand.

DR. J. ARTHUR HAZELTON,

recalled as a witness by and on behalf of the government, having been previously duly sworn, resumed the stand and testified further as follows:

Direct Examination (Continued)

By Mr. Lucas:

Q. Doctor, to pick up the thread where we left off before the noon recess, have you completed telling us everything that was said to you by Mr. Roberts or Mr. Carter at the time that you say he handed you this document that is marked Government's Exhibit 31, and you made the copy?

Mr. Rose: I want to correct the record on that. There is no such testimony that you handed him the document that is referred to.

Mr. Lucas: The original of the document. I will withdraw the whole thing.

Q. By Mr. Lucas: Have you told us all of that conversation, Dr. Hazelton?

A. To continue, when Roberts called at the office about this plan, that he had been in California in touch with members of the company that was concerned with these 1200 units that he was to be permitted or allowed to get [131] together as

(Testimony of Dr. J. Arthur Hazelton.)

his part of the transaction, he said he had been to California and contacted certain members of the company, and they would allow him to put in that number of shares. He said that this group had been willing to accept an offer of thirteen dollars and a half or seventy or seventy-one shillings in English money, from a Mr. Stanley who was supposed to be representing the English interest.

Q. You used the figure seventy-one shillings or thirteen dollars and a half, for what?

A. That was to be the price paid per unit, one share of stock and one of note.

Q. Of the Trinidad?

A. Of Trinidad that this syndicate was buying up from the parties in California.

Q. Anything else?

A. Well, I demanded more proof that this was supposed to be a genuine transaction, and I asked more information regarding it, and that was the copy of the letter that Roberts sent me after his visit there, to more or less confirm that same plan.

I understand that. But we are staying away from that letter which he gave you, and of which you made a copy, and devoting our attention to just what he said now.

A. He said while he was in California he had contacted members of this Wake Company, mentioning Mr. Danziger, and they were connected with the Doheny interests, and they [132] were more or less involved a great deal in selling oil, and they could dispose of it that way, and he had

(Testimony of Dr. J. Arthur Hazelton.)

several connections, that was the reason he would be offered to put in this block of 1200 units of stock, which this syndicate was selling to the British interests through a Mr. Stanley.

Q. Did he give you any figures or make any figures there while he was talking to you?

A. I kept a record of a note that he put on some scrap paper of certain figures that he made there, which I kept.

Q. I show you, Doctor, after having shown it to counsel, a little piece of scratch paper on which there are some figures. In whose handwriting are those? A. Roberts'.

Q. What did he tell you when he was making those figures?

Mr. Rose: I object to it on the ground that the same is not binding on the defendants on trial, no proper foundation is laid, and it is hearsay.

The Court: The objection is overruled.

Mr. Rose: May an exception be noted?

The Court: Exception allowed.

A. The top figure here is 13095. That was supposed to be total proceeds from the sale of these block of units, 1200.

Mr. Rose: I move that his answer be stricken. It is, manifestly, not responsive to the question. It is merely a [133] conclusion and opinion of the witness.

The Court: Denied.

The Witness: The figure below is 3200.

(Testimony of Dr. J. Arthur Hazelton.)

Q. By Mr. Lucas: What did he say with respect to that figure?

A. That was supposed to be Roberts' amount of the total transaction.

Q. What do you mean by the total transaction?

A. That was his part of the \$13,095.00, that he was to receive the \$3,200.00 for his own share.

Q. What did he say with respect to the lower figure there?

Mr. Rose: I object to that as leading and suggestive, and having been, assertedly, asked and answered.

The Court: You may answer.

A. The below figure is 9895. This was to be my proceeds. Roberts said that that was to be forwarded to me by bank draft to any bank that I named.

Q. By Mr. Lucas: For payment of what?

A. For the block of 1200 units.

Mr. Rose: Your Honor, I am objecting to this constant intermittent leading and suggestive matter here. The witness is being asked matters which we are strenuously objecting to on the ground they are manifestly hearsay. I think we have our problems as it is without adding to that these leading and suggestive questions. Opposing counsel should [134] be directed to ask this witness the conversation, and when we have a ruling on it he should be permitted to relate the conversation without suggestion.

(Testimony of Dr. J. Arthur Hazelton.)

The Court: Go ahead and describe what that paper means in your own way.

The Witness: The below figure of \$9,895.00 was to be my proceeds of the sale of the 1200 units. That, as I said before, was to be delivered to me to any bank that I designated by bank draft, by Roberts.

Mr. Lucas: I now offer this in evidence as the government's exhibit in regular order.

Mr. Rose: To which objection is had on the ground that no proper foundation has been laid; the same is not binding on the defendants on trial.

The Court: It is admitted.

The Clerk: 32.

Mr. Rose: May an exception be noted?

The Court: Exception allowed.

(The document referred to was marked as Government's Exhibit 32, and was received in evidence.)

Q. By Mr. Lucas: I show you, after having first shown to counsel, a letter, the heading of which is "Dear Doctor," and ask you if you have ever seen that before.

A. I have.

Q. Did you receive that through the mail?

A. I did. [135]

Q. Turn over on the back and tell me whose handwriting is the signature there.

A. Roberts'.

Q. Did you receive that from Mr. Roberts?

A. That's right.

(Testimony of Dr. J. Arthur Hazelton.)

Q. This document is not dated. Can you tell me, if you have any recollection, approximately the time that you received it?

A. Well, it was April of 1940, I believe, in that locality around either March or April. That was after the other letter.

Q. After the other letter?

A. That's right; because he forgot to put an address to return it to New York to him.

Mr. Lucas: I offer this as the government's exhibit next in order.

Mr. Rose: To which objection is had upon the ground no proper foundation has been laid, and the same is incompetent and immaterial, and not binding on the defendants on trial.

The Court: Admitted.

Mr. Rose: May an exception be noted?

The Court: Exception allowed.

The Clerk: Exhibit 33.

(The document referred to was marked as Government's Exhibit 33, and was received in evidence.) [136]

Q. I show you, Doctor, after having first shown to counsel, a letter dated March 14, 1940, together with an envelope, and ask you to look at it and tell me whether you have ever seen the letter and envelope before.

A. I received that from Roberts in California.

Q. You received the letter and the envelope through the United States mail, did you?

A. That's right.

(Testimony of Dr. J. Arthur Hazelton.)

Q. And the envelope attached to the letter is the envelope that the letter came to you in?

A. That's right.

Mr. Lucas: I now offer this in evidence as the government's next in order.

Mr. Rose: To which objection is had upon the ground that no proper foundation has been laid to connect or contribute any knowledge of this document to any of the defendants now on trial, to show that they ever authorized or had any knowledge of the preparation, transmittal, or execution of such document, or any of the contents thereof; that the same is not binding and is incompetent as against the defendants now on trial.

The Court: It is admitted.

Mr. Rose: May an exception be noted?

The Court: Exception allowed.

The Court: What has happened to the money orders? Were they put in evidence?

(The document referred to was marked as Government's Exhibit 34, and was received in evidence.) [137]

Mr. Lucas: I am going to get to them right now.

Q. By Mr. Lucas: Doctor, as a result of any conversation with the defendant Carter, whom you knew as Roberts, did you send any money orders to Mr. Carter or Roberts for any sums of money?

A. I did.

Q. Do you remember how much money you sent by way of money orders?

(Testimony of Dr. J. Arthur Hazelton.)

A. Four \$100.00 money orders.

Q. Do you remember from where you sent them?

A. They were sent from Woodbury.

Q. From Woodbury, New Jersey?

A. That's right.

Q. Do you remember to what address you sent them?

A. They were sent to an address in New York City.

Q. As indicated in one of these exhibits here which we have just——

A. That's right.

Q. I show you, after having previously shown it to counsel——

Mr. Rose: I don't recall seeing those.

Mr. Lucas: Government's Exhibit 17, in evidence, yesterday was the ten photostatic copies of money orders, six of which had reference to the lady who was on the witness stand and testified about the purchase in Los Angeles of money orders.

Q. By Mr. Lucas: I show you now, Doctor, Government's Exhibit 17, which was admitted in evidence yesterday, and contains photostatic copies of ten money orders, and direct your attention to the last four thereof, the first one of which is dated March 18, 1940, and is for \$100.00, and contains the photostatic endorsement, "A. L. Roberts;" is that one of the money orders which you sent to Mr. Roberts?

A. Yes, sir.

Q. And the second one, dated April 12 for

(Testimony of Dr. J. Arthur Hazelton.)

\$100.00, and has the photostatic endorsement, "A. L. Roberts;" is that another one of the money orders you sent him? A. Yes.

Q. I direct your attention to the third one, dated April 12, the same date as the preceding one; did you buy this one on the same date?

A. I did.

Q. And that has a photostatic signature of "A. L. Roberts;" is that one you sent him, also?

A. Yes.

Q. And the next one dated April 12, dated in Woodbury, New Jersey, for \$100.00, and has the photostatic signature "A. L. Roberts;" is that the other one? A. It is.

Mr. Lucas: This exhibit is in evidence, your Honor. I called it to your Honor's attention yesterday that I would [139] connect up those four remaining money orders, and I think that is carrying out what I stated yesterday.

Mr. Rose: What is the state of the record, your Honor, in connection with this? The respective items reflected on this exhibit are items with divergent dates and relating to different persons, different transactions. Did your Honor receive all of them or just those that were identified?

The Court: In order to help make Mr. Rose's record, I suggest you re-offer the whole exhibit, Mr. Lucas.

Mr. Lucas: I now re-offer in evidence what has heretofore been admitted as Government's Exhibit 17.

(Testimony of Dr. J. Arthur Hazelton.)

The Court: Consider my prior ruling expunged now, and it is offered anew.

Mr. Lucas: I now offer in evidence, your Honor——

The Court: Exhibit 17.

Mr. Lucas: ——Exhibit 17.

The Court: Now, Mr. Rose, make your record.

Mr. Rose: In behalf of the defendants on trial, your Honor, objection is had on the same ground, that no proper foundation is laid respecting the transactions reputed to be reflected by these instruments, insofar as my clients are concerned; that the same is a transaction, assertedly, between this witness, insofar as the portion of this exhibit, and one Roberts or Carter, whatever his name is; and in respect to the rest of the exhibit, the same is immaterial, it doesn't pertain or relate to any charge now on trial, or [140] over which the government of the United States would have any jurisdiction; that the same are not binding on the defendants.

The Court: The entire exhibit is admitted.

Mr. Rose: May an exception be noted?

The Court: Exception is allowed.

Q. By Mr. Lucas: I show you, Dr. Hazelton, after having first shown to counsel, a letter on the letter-head of Wake Development Company, bearing date of March 28, 1940, and ask if you have ever seen that document before?

A. I have.

Q. Did you receive that through the mail from the Wake Development Company? A. I did.

(Testimony of Dr. J. Arthur Hazelton.)

Mr. Lucas: I offer this in evidence as government's exhibit next in order.

The Court: When did you receive it?

The Witness: 1940.

The Court: About when in 1940?

The Witness: In March.

Q. By Mr. Lucas: Within a few days from the date it bears?

A. That's right.

The Court: Do you offer it?

Mr. Lucas: I now offer it as government's exhibit in regular order, your Honor. [141]

The Court: Admitted.

The Clerk: This will be 35.

(The document referred to was marked as Government's Exhibit 35, and was received in evidence.)

Q. By Mr. Lucas: In connection with the money that you transmitted to Carter or Roberts by the money orders we have just been talking about, did you have any conversation or did Mr. Roberts have any conversation with you about that \$300.00?

A. You mean regarding the cashier's check?

Q. With regard to the cashier's check, or particularly I am asking about this \$300.00 you sent by postal money order, what did he say, if anything, about that money?

Mr. Rose: I object to it on the ground that no proper foundation has been laid, leading and suggestive; and, further, hearsay and assumes facts

(Testimony of Dr. J. Arthur Hazelton.)

not in evidence, that there was any such conversation.

Q. By Mr. Lucas: Do you recall any conversation, Doctor, with Mr. Roberts, prior to sending him these Post Office money orders?

A. This conversation referred to these money orders that were to bear his expense to connect up with the parties in California involved, to enable to get this 1200 unit block deal arranged through them in California, so that that could be sold, then, to these British purchasing interests. That was the part for his traveling expenses from New York to [142] California and down to Trinidad.

Q. I show you, after having first shown to counsel, a letter on the letter-head of Wake Development Company, dated April 22, 1940, and ask you if you have ever seen that before? A. I have.

Q. Did you receive that through the mail?

A. I did.

Q. At or about the time that the letter bears date? A. Yes.

Mr. Lucas: I offer this in evidence as the government's exhibit in regular order, if the Court please.

The Clerk: 36.

The Court: Admitted.

(The document referred to was marked as Government's Exhibit 36, and was received in evidence.)

Q. By Mr. Lucas: Now, Doctor, Government's Exhibit 36 says as follows:

(Testimony of Dr. J. Arthur Hazelton.)

“Dear Dr. Hazelton:

“Enclosed herewith you will find Certificate #C132 representing 300 Units of preferential profit sharing notes of the Trinidad International Petroleum, Ltd.

“We have been instructed to send this Certificate to you direct by Mr. Roberts, who has asked us to transfer this amount into your name for a certificate which he recently sent us. [143]

“Will you kindly sign the enclosed receipt and return for our records.”

Having this in mind, this letter, do you recall any conversation with Roberts or Carter about the transfer into your name of these units?

A. They were to be transferred to my name——

Q. First, do you recall any conversation?

A. I do.

Q. When and where did it take place?

A. It occurred in my office.

Q. And at or about what date?

A. In March.

Q. What year? A. '40.

Q. Tell us what it is.

Mr. Rose: Object to it as hearsay, no proper foundation laid, and not binding on the defendants on trial.

The Court: He may answer it.

Mr. Rose: May an exception be noted?

The Court: Allowed.

A. This was to be a part to make up the 1200

(Testimony of Dr. J. Arthur Hazelton.)

unit block that Roberts was arranging through parties in California.

Q. Do you recall anything else about it now?

A. It was all to be transferred into my name, and [144] upon the completion of the deal the amount received from the sale of such Trinidad securities was to be forwarded to me to any bank that I designated by bank draft.

Q. All right. You said it was all to be transferred to you. Do you mean all of the 300 or all of the 1200?

Mr. Rose: I object to counsel testifying. This matter has been asked and answered, your Honor, on at least two occasions, when the witness has been directed to relate conversations.

The Court: Go ahead and explain in your own way what happened.

The Witness: These 300 were to be added to the 900, approximately, that I held, to make up the 1200 unit that was necessary for Roberts to get in order to complete the deal with parties involved in California, which was their part of the scheme to liquidate the Trinidad International securities. In other words, the 300 was to be added to mine to make that block of stock.

Q. By Mr. Lucas: Were you ever notified where to send the 1200 units?

A. I was never notified where to send them.

Q. Did you ever see Roberts again?

A. I did not.

Q. Did you ever get any money back from the

(Testimony of Dr. J. Arthur Hazelton.)

transfer or sale of the securities that you gave to Roberts? A. No. [145]

Q. The Trinidad deal, was it ever completed in accordance with Roberts' representations?

A. No.

Mr. Rose: Just a minute. I object to that as assuming facts that are not in evidence; it is leading and suggestive, and calls for opinion and conclusion of the witness.

The Court: He may answer.

The Witness: No, I never received anything.

The Court: What happened to the 1200? Did you turn them over to somebody?

The Witness: No. I still have it.

The Court: You still have it?

The Witness: Yes.

Q. By Mr. Lucas: You are still waiting to be notified where to send them?

The Witness: That is the idea.

Mr. Rose: I object to that as argumentative and facetious. [146]

The Court: Stricken.

Mr. Lucas: At this time, if the court please, I may indicate this: You will notice the allegations contained in the indictment, your Honor, say and set out that the defendants having devised this scheme to defraud made certain representations, and they are enumerated; and if we refer to the indictment, down to about line 27, beginning at line 22, we find there a representation, and then parenthetically and set out in a bracket is the contrary of the

(Testimony of Dr. J. Arthur Hazelton.)

fact—that is, contrary to the representation. For instance, on page 4, among other things represented:

“(1) T. I. P. owned valuable oil properties on the Island of Trinidad, British West Indies, and also in the state of New Mexico, was producing oil from its properties in Trinidad, had commercial oil wells thereon, was in a prosperous condition, and its securities would greatly rise in value.”

Now then, there is parenthesis, and it says:

“The fact was, as the defendants then and there knew, but did not disclose to the persons to be defrauded, that defendant T. I. P. owned no properties in New Mexico; its sole assets consisted of a contract, obtained indirectly from its promoters, to acquire certain rights [147] to drill for and produce oil on certain lands on the Island of Trinidad, the oil-producing possibilities of said lands being unknown;”

Then it runs on down all the way to the bottom of that page stating the alleged facts.

Now, I am prepared to interrogate this witness directly for a categorical answer yes or no were any of these matters stated to him that are set out here in the parenthetical allegations, part of which I have just read to your Honor.

There are two ways of looking at it. If the witness has told us all that he can possibly remember of the representations by Mr. Roberts, then these things were not stated to him. I would like for the purpose of the record, and for perfect clarity, to proceed at this point to ask the witness those cate-

(Testimony of Dr. J. Arthur Hazelton.)

gorical questions which are parenthetically alleged in the indictment.

Mr. Rose: We object to the procedure as unknown to the law, and contrary to all of the evidentiary rules. We, as defendants here, are at this time apparently being saddled with conversations had at a distant point with a person originally a defendant in this action and no longer a defendant. Now, your Honor, has made various rulings to conversations and reputed representations made, manifestly, out of the presence of those on trial. I don't know of any other way to determine what representations were assertedly made, even if the same are binding on us, [148] than to ask the witness to relate all of the conversations, and to present all of the communications other than oral that came into his possession. Now, apparently, that has been done here; and to simply build up your own straw men here by making certain allegations in an indictment, and then asking the witness whether those statements were made or not, is an incredible form of procedure, according to the rules of evidence.

I think counsel should canvass this witness to determine whether there were any other conversations or other communications, other than have already been testified to, and if so to have him relate them or identify them.

The Court: What representations, if any, were made about the Trinidad properties, besides what you testified to? I say "if any."

(Testimony of Dr. J. Arthur Hazelton.)

The Witness: They have been enumerated.

The Court: What?

The Witness: Do you want me to tell what the representations were?

The Court: That's right; and when.

The Witness: First, the representations were made by Roberts in my office that the company owned oil producing wells in the Island of Trinidad, and that the oil was being purchased by the British Government, they had a source of outlet for it, and, of course, that all the oil was taken through that source; and I was given to understand that [149] these were oil producing wells.

The Court: When in your office?

The Witness: That was in 1938, originally.

The Court: Anything further along that line?

The Witness: Further conversations have all been related here, as I stated before, the letters and things introduced, they were further relations I had with so-called Roberts.

The Court: The letters speak for themselves. Is there anything further you can tell about the value of the properties Trinidad had?

The Witness: The value as set forth by Roberts that the unit and note at the original time was supposed to be at \$8.00.

The Court: You covered all that. You covered everything, in other words, all of the discussions with Roberts?

The Witness: Yes.

Mr. Lucas: I might say, in answer——

(Testimony of Dr. J. Arthur Hazelton.)

Mr. Rose: Pardon me, your Honor. This is an interruption of the court. The court is apparently, to my understanding, following the argument.

The Court: Do you claim surprise by this witness?

Mr. Lucas: No, no. I wanted to amplify——

The Court: He has told everything that he says was said.

Mr. Lucas: I did want to make this explanation in connection with what I said a moment ago. The government [150] is prepared to prove this indictment, and we have stated those things there, as I said, parenthetically; but in Section 77q (a) (2) of Title 15, under which some of these counts in the indictment, the Securities Act features of this indictment are drawn, your Honor will remember——

The Court: No, I won't remember.

Mr. Lucas: That is what I am here for, perhaps, to tell you.

The Court: All right.

Mr. Lucas: Under that Section 77q (a) (2) of Title 15, it is made an offense for a person to fail or refuse or omit to state a material fact necessary to make the deal to be properly represented to the investor; and we allege here, as I say, parenthetically, in the indictment, that certain facts were not disclosed.

The Court: What page?

Mr. Lucas: The very first one begins on page 4, line 27, clear down to the very bottom of the next page. We allege that those were the facts which

(Testimony of Dr. J. Arthur Hazelton.)

should have been disclosed to any witness in order to avoid a violation of the law under Title 15, 77q (a) (2).

Mr. Rose: Your Honor, this gets down to what Judge Fricke and I were discussing sometime recently, that the prosecution has advanced to the stage now of where they think they can put a police officer on the stand and ask him if he believes the defendant guilty of the offense [151] charged, and that is competent.

We have here, your Honor, as your Honor indicated a moment ago, apparently a full disclosure, so far as this witness is able to tell us, of everything that was related to him, and by whom; and then he has advanced certain documentary data that is in evidence. I take it that we have now before this court all of the things that were said. And if there is anything that is supposed to have been said, that wasn't said, and we were charged in law to say it, then that is disclosed, apparently, as this state of the evidence by the fact that other matters were not said.

As it has been pointed out, he has told us everything that was said, and everything that was handed to him. He can't ask him if these disclosures were made. In the first place, counsel has advanced the fallacious theory, your Honor—and I think I ought to point out to your Honor that the stock involved here was stock that was privately owned and had been issued properly and legally, it wasn't a new issue of stock, and counsel is overlooking that vital

(Testimony of Dr. J. Arthur Hazelton.)

factor, which, of course, ultimately will become of importance in a determination of whether they have any standing here at all on any hypothesis. In other words, we contend—I think your Honor ought to know it if counsel is trying to argue the merits of the incident—that the stock involved in this transaction was private and personal property of the Wake Development Company, that it received for a valuable consideration, and over which the Securities and Exchange [152] Commission has no jurisdiction whatsoever, except, it is conceded, that no person may use the mails to defraud. If a plan or scheme to defraud is entered into by use of the mails, we have a public offense. But as long as he is talking about the disclosures of the stock, I want to indicate to him right now that the stock here involved is not subject to this proviso at all, because it is privately owned stock that was issued validly under the laws then existing and effective.

The Court: How does your indictment break down? How many mail count frauds do you have, and how many S. E. C. counts?

Mr. Lucas: We have Counts 1, 2, 3, 4, 5, 6 and 7 are fraud counts under the Securities Act of 1933; Counts 8, 9, 10 and 11 are violations of the registration provisions of the Securities Act of 1933; and Counts 12, 13, 14, 15 and 16 are mail fraud counts; and Count 17 is the conspiracy.

But to pick up the thread here, there is, of course, a sharp disagreement between government counsel and counsel for the defense as to the provisions of

(Testimony of Dr. J. Arthur Hazelton.)

the law as to whether or not they cover only stock of original issue; it being the contention of the government, and very readily ascertainable by a reading of Sections of the law, that the stock involved here, even though it is owned by the Wake Company, is, nevertheless, under the provisions of the law. [153]

Now, if your Honor will bear with me just a moment, this is not as counsel says an argument in support of the indictment, but merely to get the view of the court as to what we would be required to prove, and it is our offer to prove. I want to read to your Honor the provision of the law which makes it mandatory upon the seller of a security, whether the seller is a corporation or whether the security is a security of original issue, or a transfer, or anything else, the solemn obligation is on the seller to state truthfully the transaction, and I read now Section 77q of Title 15, which says:

“It shall be unlawful for any person in the sale of any securities by the use of any means or instruments of transportation or communication in Interstate Commerce or by the use of mails directly or indirectly to obtain money or property by means of an untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading.”

The Court: What are you reading from?

(Testimony of Dr. J. Arthur Hazelton.)

Mr. Lucas: I am reading from United States Code Annotated, Title 15, Section 77q(a)(2).

Mr. Rose: Title 15?

Mr. Lucas: Yes, Title 15. On that basis we are prepared—— [154]

The Court: Are you going to keep this witness here for awhile?

Mr. Lucas: Yes, your Honor.

The Court: I think for the present——

Mr. Lucas: You said for a while, your Honor?

The Court: Until the end of the trial?

Mr. Lucas: No. Your Honor, this witness does want to leave tomorrow and has reservation made. But, of course, he is here under subpoena and subject to the discretion and direction of the court.

The Court: The immediate question now is he has testified to everything that was said to him, but you want to ask him was this said to him?

Mr. Lucas: That is it.

The Court: Was this said to him, expecting an answer of yes or no?

Mr. Lucas: Yes.

The Court: I shouldn't think that is necessary.

Mr. Lucas: I just wanted a ruling by the court.

The Court: He said over and over again that he has said everything that has been said to him. And if he has said everything that was said to him, then that wasn't said to him.

Mr. Lucas: I can't disagree with your Honor's approach to it. I merely wanted to get that in the

(Testimony of Dr. J. Arthur Hazelton.)

record in the way of a ruling, and in the way of an offer, so that the record [155] would be clear.

The Court: Are you ready for cross examination?

Mr. Lucas: I believe we are. May we have the usual afternoon recess at this time? It would give us an opportunity to check on it.

The Court: Yes.

(Short recess was taken.)

Mr. Lucas: Will you resume the stand. I just have about three questions with this witness, your Honor, and then I am through.

Q. By Mr. Lucas: Dr. Hazelton, I show you Government's Exhibit 24 in evidence, and I show you a letter on your letterhead addressed to Wake Development Company, and ask you if that is your signature? A. It is.

Q. I show you what purports to be your signature on a return receipt of the Post Office for something that you sent to Wake Development Company; is that your signature on that? A. Yes.

Q. I show you what purports to be your signature on another return receipt from the Post Office; is that your signature? A. Yes.

Q. I show you what purports to be your signature on another return receipt from the Post Office; is that your [156] signature? A. Yes.

Q. I show you what purports to be your signature on a letter on your stationery, dated July 6, 1938, and ask you if that is your signature?

A. Yes.

(Testimony of Dr. J. Arthur Hazelton.)

Q. I show you another letter dated July 22, 193—
what is that, 8? A. Yes.

Q. On your letterhead, addressed to Wake; is
that your signature on that letter? A. Yes.

Q. I show you another letter on your letterhead,
dated 8-16-38, addressed to Wake Development
Company, and signed Dr. J. Arthur Hazelton; is
that your signature? A. Yes.

Q. And with respect to the carbon copies, that
are yellow second-sheets—no.

Mr. Lucas: That will be all. No further direct
examination.

Cross Examination

By Mr. Rose:

Q. Dr. Hazelton, you have testified here this
afternoon and this morning, in response to ques-
tions, about conversations that you had back in '38.
Do you remember the actual conversations that you
had in '38 as you have related them [157] here?

A. I do.

Q. That is, you actually recall the words that
were used by the person called Roberts as of the
time they were made to you? A. I do.

Q. Now, have you made it a practice to make
memoranda of the conversations had with Mr.
Roberts?

A. I have a good recollection of the transactions
in my own memory.

Q. Have you discussed what your testimony
would be here with anyone? A. No.

(Testimony of Dr. J. Arthur Hazelton.)

Q. At any time? A. No.

Q. Let's clarify that now so we will understand each other. You have not discussed what you would testify to here today or yesterday with any person whomsoever?

Mr. Lucas: I will stipulate he talked to me many times.

Mr. Rose: Just a minute. Your Honor, I object to any stipulations.

The Court: Answer.

The Witness: I testified with counsel, or conferred.

Q. By Mr. Rose: When did you confer with counsel?

A. First, when Mr. Mainland called on me regarding these transactions. [158]

Q. How long ago?

A. That was in 1940, '41.

Q. And was your memory refreshed by Mr. Mainland, by his suggesting to you what may or may not have been said on these occasions?

A. He didn't have to refresh my memory. I remembered.

Q. I didn't ask you that. Did he say anything?

A. No.

Q. You stated the first time you met this man Roberts, whom you have identified here in court as Mr. Carter, the first time you met him was in June of '38.

A. Either May or June of '38, that's right.

(Testimony of Dr. J. Arthur Hazelton.)

Q. Had you had any prior transaction with him of any character or description?

A. None before.

Q. Did he hand you a card of any kind to show his identification?

A. No card of identification.

Q. You say your first contact with him, to your recollection, is a phone call?

A. Two phone calls.

Q. You didn't know who you were talking to?

A. He said that he was connected with the Trinidad International Petroleum. That is, by 'phone conversations.

Q. You mean over the telephone he told you he was connected with the Trinidad corporation? [159]

A. He said——

Q. Please answer my question.

A. Not at the first conversation. It was regarding transfer of securities.

Q. In other words, he discussed with you liquidating certain securities that you had?

A. That's the idea.

Q. And he asked that you pay a commission on that liquidation?

A. Not by telephone.

Q. Let's see if I understand you. The first contact he made with you he discussed, in general, the question of liquidating certain securities that you then had; is that correct?

A. He didn't know which ones I had.

Q. Well, did he approach you in this way: that if you did have any he would liquidate them for you?

(Testimony of Dr. J. Arthur Hazelton.)

A. Nothing was concerned until he made a personal appearance at the office.

Q. What did he tell you in his first contact with you that he wanted to discuss with you?

A. He wanted to take the Martin Custom Cord, which was in bankruptcy.

Q. Did he tell you that he knew you had such stock? A. That's right.

Q. He told you that in the first 'phone conversation? [160] A. That's right.

Q. Well, in order to save time, let me ask you if he even mentioned the word "Trinidad Corporation" in his first 'phone conversation with you?

A. That wasn't connected in the first conversation.

Q. In other words, he didn't mention it at all?

A. He mentioned it in his personal appearance there, yes.

Q. Doctor, we are trying to clear these things up here coherently with specific periods. I am not attempting to foreclose you from relating what might have been said on some other occasion, but I want to clear up certain steps. In other words, in his first contact with you by 'phone, no mention was made of Trinidad? A. That's right.

Q. Or Wake Development Company.

A. That's right.

Q. When, incidentally, was the first time you heard the name Wake Development Company?

A. When he made his personal appearance at the office.

(Testimony of Dr. J. Arthur Hazelton.)

Q. And this was after the two phone conversations?
A. That's right, a few days later.

Q. What did he say to you about the Wake Development Company?

A. He said it owned valuable oil producing property in the Island of Trinidad. [161]

Q. He said that the Wake Development Company owned it?
A. That's right.

Q. When did he mention Trinidad Company?

A. That was connected with the profit sharing notes and with the Trinidad Company.

Q. His first statement to you was that the Wake Development Company had valuable oil properties in Trinidad?

A. These were connected together.

Q. Please, can't you answer my questions?

Mr. Lucas: Let the witness answer, please.

Mr. Rose: I am trying to get an answer that is responsive to the question.

The Witness: He said they owned valuable oil producing properties in the Island of Trinidad.

Q. By Mr. Rose: That is, the Wake Development Company?
A. That's right.

Q. Did he tell you what his business was?

A. He was supposed to be acting as my agent.

Q. He told you he was acting as your agent.

A. After the deal was consummated.

Q. Now, please. You have got counsel here who, if he deems it necessary, will give you an opportunity to clarify anything that is necessary, if he thinks it is necessary.

(Testimony of Dr. J. Arthur Hazelton.)

When did he mention that he was to be your agent, in relation to the first 'phone conversation?

A. He didn't mention it over the 'phone.

Q. But he did say he wanted to be your agent the first time he met you personally?

A. After the deal was arranged to exchange these——

Q. Dr. Hazelton——

The Court: Let him finish.

Mr. Lucas: Let——

The Court: You keep your seat. I know how to protect the witness. You let him finish his answers. don't interrupt him until he finishes his answer.

Mr. Rose: I am sorry, your Honor.

The Court: You have interrupted two or three.

Mr. Rose: Your Honor realizes that——

The Court: You let him finish his answers. That is a simple matter.

Mr. Rose: Your Honor prefers that he finish the answer, then if it is not responsive move to strike. Very well.

The Witness: On his personal appearance he told me the Wake Company had these valuable oil producing properties in the Island of Trinidad; and that is whereby the deal was arranged to exchange these mentioned securities before in exchange for the 300 shares of the first transaction.

Mr. Rose: Your Honor, I will now be obliged to move to strike the latter part of his answer on the ground that it is not responsive to the question. And I apologize to the court. [163]

(Testimony of Dr. J. Arthur Hazelton.)

The Court: That is all right.

Mr. Rose: Personally I find—I have gone into this before—some judges prefer that the witness be permitted to answer, and then if there is something that should be stricken, we do it. But your Honor sees the difficulty here; now I have to pick up the thread where he went off.

Will you read back the answer, and then I will indicate to his Honor what part I desire stricken.

(The record was read.)

Mr. Rose: Commencing with “whereby the deal was arranged,” from that point on I move that the answer be stricken as not responsive.

The Court: The motion is denied.

Mr. Rose: May an exception be noted?

The Court: Exception is allowed.

Q. By Mr. Rose: Did he tell you he was interested in acting as your agent in procuring some Wake Development Company stock?

A. He was interested in just making the transfer, and he was to act as my agent after the transfer was made.

Q. He was going to transfer to you Wake Development Company stock; is that what he said?

A. He was to sell the other to these parties in Pennsylvania, and then he was to get together with the Wake Development Company and transfer that to my name, with his commission. [164]

Q. In other words, he said he wanted to be your agent, sell the certain securities that you possessed,

(Testimony of Dr. J. Arthur Hazelton.)

and with those proceeds he was to acquire for you Wake Development Company stock; is that it?

A. That's the idea.

Q. That is what he told you?

A. That's right.

Q. And you told him that was satisfactory to you? A. We made the arrangement.

Q. Did you tell him that would be agreeable to you? A. Yes, sir.

Q. Now, did he tell you to communicate with the Wake Development Company?

A. He said, "Make communications with——"

Q. Please, doctor. If it is possible for you to answer my question—— A. Yes.

Q. All right. What did he do? Give you a card, or did he give you the address, or what?

A. He gave me an address to send his mail to, and also the address of the Wake Company.

Q. The address that he gave you to send the mail to him was not the same address as Wake, was it?

A. That was in New York City, the first time.

Q. That is, his address, meaning Roberts or Carter, his address was given to you as one in New York? [165] A. That's right.

Q. And he gave you an address out here for the Wake Development Company?

A. That's the idea.

Q. Now, prior to communicating with the Wake Development Company did you write to him in New York, that is, Roberts? A. I did.

(Testimony of Dr. J. Arthur Hazelton.)

Q. Did you keep a copy of that communication you sent to him?

A. I had a reply from him about the itemized statement of stocks sold.

Q. Doctor, did you keep a copy of the letter you sent to him in New York? A. I did not.

Q. Did you get an answer from him from New York? A. I did.

Q. Have you got that answer?

A. The answer is here on the amount of the stock sold and the proceeds.

Q. Have you got an answer from Roberts to your communication that you said you sent to him in New York? A. Yes, I have.

Q. Where is it? A. It is in the files.

Q. Have you got it? [166]

Mr. Lucas: Are you speaking of an exhibit, doctor?

The Witness: Yes, that's right.

Q. By Mr. Rose: You have a letter here from Mr. Roberts in reply to the first communication you sent to him in New York?

A. I have the reply there of the stocks sold, yes.

Q. That is the stock he had sold of yours other than Trinidad or Wake Development, is that it?

A. That's the idea.

Mr. Rose: Where is that letter, gentlemen?

Mr. Lucas: It is in the exhibits, the witness said, Mr. Rose.

Mr. Rose: Well, we know there is no such exhibit here.

(Testimony of Dr. J. Arthur Hazelton.)

Mr. Lucas: I think if you will take a look at Exhibit 22 you will find what the witness is talking about.

Q. By Mr. Rose: It is my impression that you said you wrote to him before you wrote to the Wake Development Company.

A. I did regarding an itemized statement of these transactions.

Q. Now, then, when you wrote to the Wake Development Company you received a prompt reply, didn't you?

A. I received a reply of acknowledgment that the stock was to be issued in my name.

Q. You requested that it be issued in your name?

A. Roberts requested that it was to be sent to me in my name. I didn't request it from the Wake Company. [167] Roberts sent it to the Wake Company and they sent it to me.

Q. You instructed Roberts to do that?

A. That's right.

Q. In direct testimony you made mention of a matter of having written to Wake Development Company a letter and received no reply.

A. I did. That was later about the value of the stock.

Q. When was this?

A. That was sometime later after the certificates were issued. I wrote two or three letters and never received a reply about their market value.

Q. About the market value?

A. That's right.

(Testimony of Dr. J. Arthur Hazelton.)

Q. You were informed, were you not, within a month after your original—wait a minute. You were informed in '38 that this stock was not on the market and wasn't listed, weren't you?

A. That is according to the letter.

Q. Well, you were informed in a letter from the Wake Development Company that it was not listed?

A. That's right.

Q. And there was no market, isn't that correct?

A. It didn't say there was no market.

Q. Well, did you notify the Wake Development Company then, upon receipt of this information that it wasn't listed and that there was no market for it, that representation [168] had been made to you to the contrary by Roberts?

A. I requested information from the Wake Company about its present value, and I never received any reply.

Q. When was that?

A. That was either in 1938 or 1939.

Q. Have you got a copy of the letter that you sent to the Wake? I call your attention to the last copy, that is the last letter of Exhibit 24, dated September 6, 1938. You received the original of that letter, did you not?

A. That's right.

Q. Following the receipt of that letter did you write to Wake Development Company and tell them about these reputed representations made to you by Mr. Roberts?

A. Roberts was acting as my representative with power of attorney.

(Testimony of Dr. J. Arthur Hazelton.)

Q. You gave him a power of attorney to represent you, is that it?

A. He was representing me in the transactions, right.

Q. Why did you keep writing the Wake Development Company instead of Mr. Roberts, as reflected by Exhibit No. 24?

A. He said to address communications to them if I couldn't get in touch with him.

Q. You didn't know where he was?

A. That's right.

Q. When you received this letter of September 6, 1938, [169] advising you that the stock was not listed, that it had no definite market value, you didn't write any letter in reply to that, did you, to the Wake Development Company? A. No.

Q. And yet you had Roberts come back two years later and talk to you about buying some more of the stock; is that right? A. That's right.

Q. As your agent, is that it? A. Right.

Q. And he was going to let you in on a deal with him that he had, is that it?

A. He was arranging a deal through parties in California.

Q. He was, is that right?

A. That's right.

Q. Now, it appears here by Exhibit 28—I don't expect you to remember it, doctor, I will show it to you—that you received in the mails a certificate No. B195 for 100 shares of the Trinidad International

(Testimony of Dr. J. Arthur Hazelton.)

Petroleum. You received that, didn't you, in the mails, as you stated? A. Yes.

Q. Well, upon receipt of this instrument you observed, did you not, that you were not receiving any shares of stock of the Wake Development Company, isn't that true?

A. That was to be held by me for Roberts. [170]

Mr. Rose: May I have the answer, please, Mr. Reporter?

(The answer was read.)

Q. By Mr. Rose: You were to hold what for him?

A. The stock certificate until he called for it.

Q. That is Exhibit No. 28; that is the Trinidad International Petroleum? A. That's right.

Q. Well, you hadn't received any Wake Development Company stock, had you?

A. I believe so.

Q. You did? Did you receive any shares of stock of the Wake Development Company?

A. I have some in my own name, yes.

Q. And where are those certificates?

A. Safe deposit box.

Q. That is, they are not here in the possession of Mr. Mainland or counsel for the government?

A. He has the numbers of them.

Q. He has the numbers of Wake Development Company stock? A. That's right.

Mr. Rose: Gentlemen, will you give us the num-

(Testimony of Dr. J. Arthur Hazelton.)

bers of the Wake Development stock that this witness assertedly claims he has?

Mr. Lucas: As far as I am concerned, Mr. Rose, I think the witness is mistaken. I do not believe, myself, that he [171] has any Wake stock.

Mr. Rose: Neither do I. In fact, I know he hasn't.

Mr. Lucas: Then it ought to be unanimous between you and me.

Mr. Rose: Then we agree to that fact, so it won't be necessary to pursue it, is that correct?

Mr. Lucas: You and I are agreed.

Mr. Rose: Well, I can't have his Honor——

Q. By Mr. Rose: According to your recollection though, you have some Wake Development stock in your possession in your safety deposit box?

A. That's right.

Q. How many shares?

A. Nine hundred and some, I believe.

Q. When did you receive it in relation to the first visit made upon you by Mr. Roberts?

A. I received it a few days after the transaction, from California.

Q. You received it in the mail?

A. That's right.

Q. We are sure about that, even if opposing counsel shares my view, you and I are now agreed that you actually have received Wake Development Company stock and have it in a safe deposit box

(Testimony of Dr. J. Arthur Hazelton.)

in your home town, is that right? A. Right.

Q. And you have 100 shares? [172]

A. I said around 900.

Q. What did you pay for it?

A. That was supposed to have had a value of \$8.00, \$5.00 plus \$3.00 on these transactions that have been mentioned before, on the trade.

The Court: Are you confused? Are you talking about Wake or Trinidad?

The Witness: Wake is the one that is the profit sharing note, and the other is the stock. You want to know the value of the stock?

The Court: I want to make sure that I understand you. The stock is the stock of what company?

The Witness: Wake Development Company.

The Court: Wake Development Company corporate stock?

The Witness: That's right.

The Court: And the profit sharing note is the note of what company?

The Witness: The Trinidad International Petroleum.

Q. By Mr. Rose: And Exhibit 28, which is 100 shares of the Trinidad International Petroleum, made out to Roberts, was to be held by you for Roberts; is that correct? A. That's right.

Q. How many shares, again, did you say you received of Wake Development Company stock?

A. 300 first, and then it was 600.

Q. That suggests to me something that his

(Testimony of Dr. J. Arthur Hazelton.)

Honor just asked you about, and take your time, please, doctor, we don't [173] want any confusion here. I call your attention to a part of Exhibit No. 24, which is the carbon copy of a letter addressed to you, under date of June 11. It says: "We have been instructed to transfer into your name 300 shares of Trinidad International Petroleum Ltd. stock and 300 units preferential profit-sharing notes of the same company. We are advised that payment will be made * * *"

I want you to think about that, because there is no point in merely getting something from you that you may be confused about. After reading that over, look at the next letter which says, "We enclose the certificate and preferential profit-sharing note in Trinidad International," look that over, doctor, and stop to think about it, and tell us, after reading that, whether you still maintain that you received Wake Development Company stock.

A. I received from the Wake Development Company the Trinidad International Petroleum.

Q. You received from the Wake Development Company the Trinidad stock, is that the idea?

A. That's the idea.

Q. And you have no stock of the Wake Development Company?

A. That's right. I was confused on that other.

Q. I didn't want this record to be confused about it.

From what you have told us here, doctor, when Roberts or Carter called on you sometime in 1940,

(Testimony of Dr. J. Arthur Hazelton.)

you didn't believe [174] the things he was telling you, is that right?

A. I had question to doubt them. Not that I didn't believe them, I needed more information.

Q. Well, for example, this Exhibit 32 of these penciled writings, you saved that because you mistrusted the man, is that it?

A. Just as a matter of record I like to see what it was.

Q. You saved it? A. I did.

Q. Anticipating some trouble in the future?

A. I just saved it as a matter of record.

Q. A record of what?

A. The transaction that was agreed upon.

Q. Well, did you write anything down on this?

A. That is not my writing.

Q. But you saved this scrap of paper?

A. I did.

Q. You did not write to the Wake Development Company or the Trinidad International Petroleum Company asking them to verify this alleged deal that you state Roberts was discussing with you, did you, in 1940? A. No.

Q. You did write to them subsequently instructing them how to make out certificates to you; didn't you? A. That's right. [175]

Q. And you received a reply?

A. That was through Roberts' arrangements.

Q. I say, you wrote to the company yourself, didn't you, the Wake Development Company?

A. That's right, but I sent the——

(Testimony of Dr. J. Arthur Hazelton.)

Q. Just a minute. In 1940?

A. That's right.

Q. And you received a reply carrying out your instructions? A. That's right.

Q. You didn't write to them asking the Wake Development Company whether there was any credence to be put in this story that you related here as told to you by Roberts, did you?

A. No.

Q. This Exhibit No. 34 here, when you received that, I am referring now to page 5 of this exhibit, and I quote from about the middle of it, "Write me A. L. Roberts suite 711" and there is a big space "Broadway, New York City," didn't you become suspicious of that?

A. The next day I received the other letter, I did.

Q. You were suspicious, then, before you began to send on your money?

A. I was doubtful about the transaction at all times.

Q. At all times, but you didn't write to the Wake Company upon it, did you?

A. Roberts was acting——[176]

Q. Please.

A. I did not write to the Wake.

Q. You didn't write to the Trinidad Company about it, did you? A. No.

Q. All right. To your best recollection, when is the last time you did see Mr. Roberts?

A. May of 1940.

(Testimony of Dr. J. Arthur Hazelton.)

Q. That is after you sent him these postal money orders?

A. Either a little before or a little after that. I mean the deal was supposed to be finished by the first of May, I believe, and I probably saw him before that. I remember that because of the war starting in Europe.

Q. Did you write to the Wake Development Company or the Trinidad International Petroleum Company after April of 1940? A. No.

Q. No communication whatever?

A. No, except for transfer of stock back after the deal. That was their communication to me of the stock.

Q. That is where they were enclosing Certificate No. 132? A. That's right.

Q. After that you didn't write to them?

A. No.

Q. Did you ever write Dr. Paddleford for it?

A. I did not.

Q. Did you ever write to J. M. Danziger?

A. I wrote to the Wake Development Company.

Q. So far as you recall, all communications that you addressed to the Wake Development Company—— A. That's right.

Q. ——have been indicated and inspected by you during the course of your testimony here?

A. That's right. They were sent to Wake Development Company, no specific individual.

Q. You notice you have been shown certain photostatic copies of letters that you sent bearing

(Testimony of Dr. J. Arthur Hazelton.)

your original handwriting; you identified it a little while ago? A. That's right.

Q. Other than those you had no other communications, to your knowledge, that you sent to the Wake Development Company, to either Danziger or the Trinidad Company or anybody?

A. The letters I sent to Wake Development Company, they may have been addressed to Mr. Danziger, but as a means of addressing it to the Wake Development Company.

Mr. Rose: I think that will be all, your Honor.

Mr. Lucas: I have a couple of questions on redirect.

May I have Exhibit No. 24?

Mr. Rose: I returned them all to the clerk.

Redirect Examination

By Mr. Lucas:

Q. Doctor, I show you Government's Exhibit 24, and in that there are one, two, four original letters from you to the Wake Development Company, each letter being written in the year 1938; do you have any recollection that you wrote more letters than those four to the Wake Development Company?

A. I sent two or three other replies or inquiries asking——

Q. Please, doctor, try to understand my question. I am not talking about replies from Wake; I am asking you simply to recall to the best of your recollection whether or not you wrote more

(Testimony of Dr. J. Arthur Hazelton.)

than four letters to the Wake Development Company. A. Yes.

Q. You think you wrote more than those four?

A. I think two others, just inquiries regarding value of stock.

Q. And did you receive any reply from those letters?

A. Only those indicated herein. There is one reply here.

Q. Did you write any letters to the Wake Development Company in the year 1939 that you now recall? A. I can't recollect that.

Q. Did you write any letters to the Wake Development Company in the year 1940? [179]

A. Only regarding the transfer of stock by Roberts.

Q. Did you write them a letter in 1940? I mean the Wake Development Company.

A. That is right.

Q. Do you find your letter in that file?

Mr. Rose: I object to that as calling for a conclusion and opinion of the witness, and not the best evidence.

Mr. Lucas: He has the correspondence in front of him, if the court please.

Mr. Rose: The file speaks for itself, your Honor.

The Witness: No.

Q. By Mr. Lucas: Did you write more than one letter to the Wake Development Company in 1940? Please speak from your recollection, your own memory, doctor, if you can.

(Testimony of Dr. J. Arthur Hazelton.)

A. I believe that was the only one.

Q. One letter in 1940?

A. That's right, with the stock enclosures.

Q. Counsel asked you if you ever wrote to Dr. Paddleford. Did you ever have Dr. Paddleford's address? A. No.

Mr. Lucas: May I have Exhibit 31, for identification?

Q. By Mr. Lucas: Doctor, I show you, after having first shown to counsel——

Mr. Rose: Is this something new? We will stipulate with you that the witness received those certificates, and that the signatures on those respective certificates are by [180] the parties——

Mr. Lucas: Whose signatures they purport to be?

Mr. Rose: Purport to be. I am satisfied they are.

Mr. Lucas: I will accept that stipulation, and offer these two certificates of Trinidad International Petroleum Ltd., being Certificate No. B193 for 700 shares, and Certificate No. B190 for 300 shares, in evidence, and ask that they be marked as one exhibit.

The Court: They are admitted.

The Clerk: 37.

(The documents referred to were marked as Government's Exhibit No. 37, and were received in evidence.)

Q. By Mr. Lucas: Now, I ask you to direct your attention, doctor, to Government's Exhibit 37, the first certificate thereof, being B190, of Trinidad

(Testimony of Dr. J. Arthur Hazelton.)

International Petroleum for 300 shares, and ask if you recall sending that certificate in to Wake Development for transfer? A. Yes.

Q. Do you recall sending that to the company? And do you recall what your instructions were with regard to the transfer of that, as to whether it was to be split in any way?

A. Roberts was to receive 10 per cent or 30 shares.

Mr. Rose: Isn't there a letter to that effect, Mr. Lucas? I mean there is a letter there instructing how the transfer was to be made. [181]

Q. By Mr. Lucas: Is that letter covering that cancellation of that certificate your letter of June 20, 1938, part of Exhibit No. 24? A. Yes.

Q. Now, then, directing your attention to Certificate B193 of the Trinidad International Petroleum for 700 shares, did you send that in to transfer, to the Wake Development Company?

A. Yes.

Q. And was that transfer, or were instructions for that transfer contained in your letter of July 6, 1938, part of Government's Exhibit 24?

A. Yes.

Q. And were the instructions contained in your letter to issue 600 shares to J. Arthur Hazelton and 100 shares to A. L. Roberts carried out?

A. Yes.

Q. Did you receive the 600 shares that were issued to you? A. Yes.

(Testimony of Dr. J. Arthur Hazelton.)

Q. And did you receive the 100 shares that were issued to Roberts? A. Yes.

Q. You received those; they did not go to Mr. Roberts? A. No.

Mr. Lucas: That is all of the redirect examination. [182]

Mr. Rose: I think that will be all, your Honor. I think the situation that I have been thinking about has been cleared up.

The Court: We can have him here until train time.

Mr. Lucas: When is your train time, doctor?

The Witness: In the afternoon.

The Court: He says in the afternoon?

Mr. Lucas: Yes.

The Court: All right. You be here in the morning, 10:00 o'clock in the morning.

Mr. Lucas: You may step down, doctor.

(Witness excused.)

Mr. Lucas: It is a quarter after 4:00, your Honor. I have one more witness in the court room. Shall we start on that witness?

The Court: Yes.

Mr. Lucas: Come forward, Miss Skinner. [183]

ADELINE B. SKINNER,

called as a witness by and on behalf of the government, having been first duly sworn, was examined and testified as follows:

(Testimony of Adeline B. Skinner.)

The Clerk: State your name, please.

The Witness: Miss Adeline B. Skinner.

Direct Examination

By Mr. Lucas:

Q. Mrs. Skinner, what is your address?

A. 69 Main Street, Manasquan. That is the address now.

Q. Manasquan, New Jersey? Is Manasquan spelled M-a-n-a-s-q-u-a-n?

A. Yes, that's right.

Q. How old are you, Mrs. Skinner, if you don't mind telling me?

A. I am about 74; 73, I guess it is.

Q. You said Miss Skinner, or Mrs.?

A. Miss.

Q. Thank you. I am sorry; I was addressing you as [184] Mrs. Skinner. Tell me, again, what did you say your age was? A. 73.

Q. Thank you. Miss Skinner, did you ever meet a man by the name of Edwards?

A. I did, certainly did.

Q. Do you see Mr. Edwards in the court room?

A. I do.

Mr. Lucas: Will you stand up, Mr. Carter, please?

(Mr. Carter stood up.)

Q. By Mr. Lucas: The gentleman that has arisen in response to my question, have you seen him before? A. Yes, I did.

(Testimony of Adeline B. Skinner.)

Q. Is he the one you know as Mr. Edwards?

A. Yes.

Q. When did you first see him?

A. It was in 1939.

Q. Can you tell me approximately the month,
Miss Skinner? A. I believe it was August.

Q. August?

A. Yes. It was coming towards fall.

Q. Was your meeting with him preceded by any
telephone conversation?

A. Nothing, nothing.

Q. Where did he meet and talk with you? [185]

A. You see, I am a nurse, I was in the home,
6 West Main Street, Farmingdale.

Q. Farmingdale, New Jersey?

A. Yes, 6 West Main Street.

Mr. Rose: Let me have the forepart of that
answer.

(The record was read.)

Q. By Mr. Lucas: Now, Miss Skinner, tell us,
to the best of your recollection, what Mr. Edwards
or Mr. Carter, as you prefer to call him, said to
you, and what you said to him on that occasion,
giving us your best recollection of the conversation.

A. Yes.

Mr. Rose: Excuse me.

The Witness: I met him at the door.

Mr. Rose: Excuse me, Miss Skinner.

The Witness: What?

Mr. Rose: I am objecting to the conversation,
your Honor, insofar as the same may be offered

(Testimony of Adeline B. Skinner.)

against the defendants on trial, firstly, on the ground that no proper foundation has been laid; secondly, the same is manifestly hearsay; and that the same is not competent nor binding on the defendants on trial.

The Court: The witness may answer.

Mr. Rose: And may an exception be noted?

The Court: Exception is allowed.

Q. By Mr. Lucas: Now, go right ahead, Miss Skinner, [186] and tell us the conversation.

A. He said he understood, knew, that I owned shares of Trinidad International Petroleum and profit sharing notes, and I said, No, I don't. I said, I had communications in regard to the stock, but, I said, I never had an opportunity to exercise my rights to transfer Great Eastern Natural Gas stock. I had had some communications from the Trinidad Company about—one said they entered into a contract——

Mr. Rose: Just a moment, Miss Skinner. I don't want to be impolite, but we have certain rules.

The Witness: What is that?

Mr. Rose: I don't want you to think I am being impolite by interrupting you, but I am obliged to interject an objection and a motion to strike at this point; so excuse the interruption.

Your Honor, will you have the question read back so I will know precisely what I had in mind?

(The question and answer were read.)

Mr. Rose: I can't at the moment ascertain,

(Testimony of Adeline B. Skinner.)

your Honor, whether the witness has digressed from the conversation referring to the reputed fact that she had an actual communication, or that this is a part of the conversation.

The Court: She started to say she had had a communication.

Mr. Rose: That is what I had in mind to move to strike on the ground that the communication would be the best [187] evidence. There is no foundation laid as to the source or the nature of said communication. Perhaps we can clarify it, counsel, if you have such thing now.

Q. By Mr. Lucas: Did you tell this to Mr. Edwards on that occasion, that you had a communication?

A. Yes.

Q. All right. Now, please——

A. I had two; more than one.

Q. Did you tell that to Mr. Edwards?

A. I think I did.

Q. Now, it will be much more convenient for us, Miss Skinner, if you will confine your remarks to just what you said to Mr. Edwards and what he said to you, and in that way we will get it into the record in a perfectly admissible and legal way. Will you try to do that? A. Yes, I will.

Q. Thank you. Go right ahead with the conversation.

A. Well, he said even after it was four years since I had had those communications, he said, even though it was four years, that I could exercise

(Testimony of Adeline B. Skinner.)

my rights, and he advised me to write to the Trinidad Company and state the facts. Which I did.

Q. What did he say for you to write to them, if he did state?

A. He outlined a letter for me, but I didn't use much of that. I just put it in my own words that I never had [188] a chance, and I had been advised that I could still exercise my rights. And if you want to know anything more you will have to question me. He had something to say when he left.

Q. That is a perfectly reasonable proposition.

Mr. Rose: May I ask your Honor now, to satisfy myself, the state the record is now in? Is this conversation between the witness and Edwards in relation to the communication, as distinguished from the fact that there are communications in fact; is that correct, your Honor?

The Court: You mean what the lady has testified to?

Mr. Rose: I mean the language used was she discussed a communication.

The Court: That's right.

Mr. Rose: If that is just part of the conversation the record is perfectly clear on it.

The Court: That is what she said.

Mr. Rose: Very well, your Honor.

Q. By Mr. Lucas: Did he say anything to you with regard to the Trinidad International Petroleum Company?

(Testimony of Adeline B. Skinner.)

A. Why, he said they owned very valuable potential oil land in New Mexico.

Q. Anything else that you can recall?

A. No.

Q. Was it discussed between you regarding the terms by which you could exchange your Great Eastern stock?

A. I must buy the notes, 100 shares. [189]

Q. Please, Miss Skinner, tell us, if you can, what Mr. Edwards said about that and what you said in reply.

Mr. Rose: I take it this is all at the same time, counsel?

Mr. Lucas: Yes.

The Witness: I wasn't prepared, for one thing, to pay for the notes just then.

Q. By Mr. Lucas: What did he say about the notes and the stock?

A. He didn't say very much.

Q. Well, whatever it was, will you tell us what you can recall, Miss Skinner?

A. He said the notes would bear interest, profit sharing, they would get a certain amount, 20 per cent of the income, that is, the profits of the stock, derived from the stock.

Q. What did he say about the stock itself, if anything?

A. Well, he didn't say very much. He didn't even say what it was worth. He did say it was listed on the British stock market, London.

Q. The London Stock Exchange?

(Testimony of Adeline B. Skinner.)

A. One other place.

Mr. Rose: Your Honor, just a second. There is no point to assigning that as misconduct, but, frankly, your Honor, this is grossly improper. I might indicate to your Honor why it is grossly improper. Certain documents placed [190] and returned to us and in my possession, through the courtesy of Mr. Mainland, indicate there are certain registrations in London in connection with some of the securities that have been mentioned here. Now, your Honor had this witness's reply to what this gentleman Edwards was supposed to have said. I think it is grossly improper for counsel to lead and suggest and change the nomenclature that was given in response to that particular question.

The Court: She hadn't finished. What did he say about listing, if anything?

The Witness: He said it was listed in another place; Port-au-Spain, in the Island of Trinidad.

The Court: Suppose you just start again and tell us where he said it was listed.

The Witness: He said it was listed on the London Stock Exchange.

The Court: Anywhere else?

The Witness: On that island.

The Court: Are you sure he said London Stock Exchange?

The Witness: Yes, yes.

The Court: You used another expression at first. You said "British," some kind of exchange.

(Testimony of Adeline B. Skinner.)

The Witness: I didn't intend to say that, because it was the London Stock Exchange.

The Court: Go ahead, Mr. Lucas.

Q. By Mr. Lucas: Was anything said with regard to the [191] actual amount it would cost you to transfer your Great Eastern stock?

Mr. Rose: I object to that form of inquiry, your Honor. It is apparent that this evidence is being received as to the defendants now on trial, over all of the objections that can be marshaled. I think counsel here, in going into this manifestly hearsay matter, should not be permitted to lead and suggest the things that he is doing here repeatedly. I think this witness appears to be intelligent enough to be asked if she had a conversation, and to state it. Let's find out what was said.

The Court: Suppose you do that, then. Tell everything that Mr. Edwards said.

The Witness: I have given you the amount, and I can tell you what he said when he left.

The Court: All right. What did he say?

The Witness: I was advised to write immediately, send my letter by air mail.

The Court: About what?

The Witness: And he would return when he thought I had an answer, to see what the company—to see if the company would agree to making my transfer, the stock I owned, Great Eastern Natural Gas, for Trinidad Petroleum.

The Court: Anything said about values?

(Testimony of Adeline B. Skinner.)

The Witness: About the values? I was to pay \$300 for the notes, and nothing for the stock. [192]

The Court: How were you to trade? Share for share, or how?

The Witness: Share for share. I had a hundred of each.

Mr. Lucas: I notice, your Honor, it is a little past 4:30. May we have the usual recess until tomorrow morning?

Mr. Rose: Would it be possible to have this conversation with Mr. Edwards concluded before the recess?

The Court: We can go a little further. Go ahead and tell everything about the conversation with Mr. Edwards now.

The Witness: That is all. I have told you all. And he said he would return in a few days, or a week. But he didn't. He called me on the telephone and wanted to know if I had heard from the company, and I said I had, and he wanted to know what the outcome of it was, and I said, "Well, they are disposed to consider it with favor."

Q. By Mr. Lucas: That was in a telephone conversation?

A. Yes, that was the telephone.

The Court: I made a note, when you first started to testify, that he said they had very valuable potential land in New Mexico. Those were your words that you used?

The Witness: Yes.

(Testimony of Adeline B. Skinner.)

The Court: Is that all he said about their oil interests?

The Witness: Yes, that's all.

The Court: You are talking here about some listing on some island. What did you mean by that?

The Witness: He said it was listed. I don't know how you would spell the name of the place, Port-au-Spain. Is there such a place?

The Court: I don't know. You see why I was asking? You said their interests were in New Mexico.

The Witness: That is the first I heard that they had any interests there.

The Court: Is there some correspondence this lady engaged in that you have?

Mr. Lucas: Yes, your Honor, there will be some introduced as we go along.

The Court: We will adjourn until 10 in the morning.

(Whereupon, at 4:35 o'clock p. m., January 17, 1945, an adjournment was taken until 10:00 o'clock a. m., Thursday, January 18, 1945.)

Los Angeles, California,

Thursday, January 18, 1945. 10 a. m.

The Clerk: United States vs. Danziger.

Mr. Lucas: Ready for the government. Come forward, Miss Skinner.

ADELINE B. SKINNER,

recalled as a witness by and on behalf of the government, having previously been duly sworn, was examined and testified further as follows:

Direct Examination (Resumed)

By Mr. Lucas:

Q. Miss Skinner, did you tell us everything that was said to you by Mr. Edwards or Carter when he called on you? A. No, I didn't.

Q. Now, tell us anything that you now recall that you didn't tell us yesterday.

Mr. Rose: Just a moment.

The Witness: He said his reason for——

Mr. Rose: Just a moment, please. I object to the form of the question on the ground that it is leading and suggestive; in addition to the objections that it is hearsay, that there is no proper foundation laid, and the same is not binding on the defendants now on trial. Also, I submit to the court the fact that your Honor, before the recess last night, at my request, solicited that this witness make all declarations that were allegedly made to her [136] at the time, and she indicated that she had so made them. Now, after the recess of yes-

(Testimony of Adeline B. Skinner.)

terday, counsel suggests that something else was said. And I think that should be considered in connection with the other objections interposed.

The Court: The witness may answer.

Mr. Rose: May an exception be noted?

The Court: Exception allowed.

The Witness: He said he was around buying the notes, Trinidad notes. I asked him what he would pay for them, and he said three hundred fifty, they would cost me three hundred.

Mr. Lucas: All right.

Mr. Rose: Pardon me. I didn't hear the first part of that answer at all.

Mr. Lucas: Will you read that back, Mr. Reporter, please?

(The answer was read.)

Q. By Mr. Lucas: Now, go right ahead, Miss Skinner.

A. When he left that's about all he said. When he left he said he would come back in a week to find out what kind of a letter I had had from the company about making the exchange of the stock.

Q. All right. Now, did he come back?

A. No, he didn't. He called up and wanted to know what the company had said. And I said, "The Trinidad Company?" And I said, "Well, they seemed to be favorably disposed to [197] let me make the exchange."

Q. Can you recall any——

Mr. Rose: Just a moment, please. May I have the right to interpose a motion? I move to strike

(Testimony of Adeline B. Skinner.)

the statement, in addition to the other grounds of objection, on the ground that no proper foundation has been laid as to the identity of the person who made this phone call, and it calls for a conclusion and opinion of the witness.

The Court: Motion is denied.

Q. By Mr. Lucas: Go right ahead, Miss Skinner.

A. In a few weeks—do you want me to leave Mr. Edwards?

Q. Yes. You never heard from him after this telephone call?

A. No, never heard from him. In about a week, or probably ten days, another man came, and he said he was coming East on business for the company, the Trinidad Company, and had come to see me. He said, "This is rather unusual that you wouldn't get rights to make the exchange." And I told him I hadn't. And he said, "Now——"

Mr. Rose: Just a moment. In the interests of keeping the record clear, I prefer that the witness complete her answer and then I will address the court on a motion.

Mr. Lucas: I suggest that the reporter read it.

Mr. Rose: I thought she had finished.

Mr. Lucas: No. You interrupted the answer of the [198] witness, in my opinion.

The Court: Go ahead with your story, lady, whatever you were telling. What did this other man say?

The Witness: He said, "Now, if you will make

(Testimony of Adeline B. Skinner.)

the exchange, don't fail to buy the notes." He said, "They are worth \$500." Do you want me to say any more?

The Court: Finish what he told you. Is that what that man told you?

The Witness: Yes.

The Court: Is that all he told you?

The Witness: Well, about the notes.

The Court: Who was he?

The Witness: Well, he didn't give his name.

The Court: And what else did he tell you, notes or anything else?

The Witness: He didn't say anything more. Before he left he said the stock was selling—no, he didn't say it was selling, he said it was worth anywhere from sixteen to eighteen dollars a share.

The Court: But you don't know who that man was?

The Witness: No.

The Court: He didn't give a name?

The Witness: No, he didn't.

Mr. Rose: I move that all of the statements in replication to the previous question, supplemented by the interrogation of your Honor, be stricken on the ground that it is, [199] manifestly, hearsay, and no proper foundation laid as to the identity of this alleged person.

The Court: Do you expect to identify this other man?

Mr. Lucas: Yes, we do, your Honor.

(Testimony of Adeline B. Skinner.)

Mr. Rose: Do you expect to produce this other man?

Mr. Lucas: No.

Mr. Rose: Then, your Honor——

The Court: Wait a minute; I am not through. Is this other man's name mentioned in the indictment?

Mr. Lucas: Whether it is or not we cannot tell, because the witness doesn't remember if he gave a name, or if he did give a name what it was. But we expect to connect that testimony up through another witness who sent the man there. And this lady has already said he was——

The Court: All right. Finish your motion, Mr. Rose.

Mr. Rose: Your Honor, I respectfully submit that we are sought to be charged here now by an individual against whom these charges have been dismissed, with his actions, and now we are sought to be bound by this business of some mysterious and unidentified individual whom opposing counsel cannot even identify at this time, under the factious allegation that they expect to connect him up by someone who sent him there.

Your Honor, there is a limitation to how far we can go in chasing ghosts. I take the position that all of these conversations are hearsay, and certainly there is nothing to [200] indicate that any of the defendants on trial ever authorized such visit, or ever delegated any powers to such persons. And we are entitled to know who this individual is

(Testimony of Adeline B. Skinner.)

definitely. I submit that the motion should be granted on the grounds stated.

The Court: Motion is denied.

Mr. Rose: May an exception be noted?

The Court: Exception allowed.

Q. By Mr. Lucas: Go right ahead, Miss Skinner.

A. When he left he said he would come back. But he didn't come. He called me on the phone.

Mr. Rose: I move that be stricken as hearsay.

The Court: Motion denied.

The Witness: He wanted to know if I was ready to exercise my rights to buy the notes. I said, "No, I am not; and when I get ready I will deal with the company." And he——

The Court: Go ahead.

The Witness: Well, he didn't like it.

Q. By Mr. Lucas: I show you, Miss Skinner, a cashier's check on the stationery of the First National Bank of Farmingdale, New Jersey, dated September 12, 1939, and ask you if you bought that check.

Mr. Rose: Counsel, we will stipulate she bought the check for the consideration therein stated, transmitted the check, and the same was deposited to the account of Wake [201] Development Company, without any additional foundation.

Mr. Lucas: And transmitted by mail to the Wake Company?

Mr. Rose: Yes; and deposited to them, deposited in their accounts, the proceeds.

(Testimony of Adeline B. Skinner.)

Mr. Lucas: I will accept the stipulation.

Q. By Mr. Lucas: Is that your endorsement on the back?

A. No, not at all.

Mr. Lucas: I offer this as the government's exhibit next in order.

The Court: What is the town that Dr. Hazelton lived in?

Mr. Lucas: Mantua.

The Court: Ask her how far her town is from there.

Q. By Mr. Lucas: How far is Mantua, M-a-n-t-u-a, from Farmingdale?

The Court: No. From where she lived.

The Witness: I don't know. I have asked but nobody seemed to know where it was.

Q. By Mr. Lucas: I show you, Miss Skinner, another letter——

The Court: Everybody slow down. We haven't got this check in. Have you offered it?

Mr. Lucas: I offer it as government's exhibit next in order.

Mr. Rose: I stipulated to it.

The Court: We will have to make a record on it. It is [202] admitted as an exhibit.

The Clerk: U. S. 38.

(The document referred to was marked as Government's Exhibit No. 38, and was received in evidence.)

The Court: Dr. Hazelton, how far is your town from where this lady said she lived?

(Testimony of Adeline B. Skinner.)

Mr. Hazelton: I would say about 70 miles.

The Witness: I am about 12 or 15 miles from Ashbury Park.

Mr. Hazelton: About 70 miles.

Mr. Lucas: May we proceed, your Honor?

Mr. Rose: I think I know the point your Honor has in mind. I might say, in assisting the court, that it appears from the whole record, so far as I know, your Honor, that the persons who were contacted in connection with these transactions had formerly, for the most part, all been stockholders in the company called the Great Eastern Natural Gas Company, as your Honor will ascertain from the communications.

The Court: Miss Skinner, do you know whose handwriting this is on the back of the check?

The Witness: No, I don't. I didn't endorse it, but I just seemed to have forgotten it until it was in the air mail, and then I immediately wrote to the company to return it. But when it came back to the bank they told me it had been endorsed.

Mr. Rose: Just a minute. I want to assist the court in [203] that connection. The defendant Danziger informs me that that endorsement was made by him, because it came without an endorsement, and she was notified that it had been endorsed and deposited.

The Witness: No, I wasn't notified. The bank told me.

Mr. Lucas: There is a letter to the effect as stated by Mr. Rose.

(Testimony of Adeline B. Skinner.)

The Court: All right. Miss Skinner, have you always lived in New Jersey?

The Witness: No; I lived in Pennsylvania. I have lived there for 22 years.

The Court: You don't happen to have relatives in Illinois by your name?

The Witness: Not that I know of. There are a lot of Skinners through the West.

The Court: Yes. All right.

The Witness: Some in New Jersey, too.

Q. By Mr. Lucas: I show you a letter, Miss Skinner, and ask you if you received that letter through the mail? A. Yes, I did.

Q. And you, in turn, gave it to Mr. Mainland?

A. Yes.

Mr. Lucas: We ask that this be admitted in evidence as the government's exhibit next in order.

Mr. Rose: I am resisting this offer on this ground, solely, your Honor: The instrument on its face seems to [204] have been altered in that the date and the stationery involved has, manifestly—if your Honor will inspect it—been removed, and I think before that thing is offered, under the rule that an alteration in a document must be explained before it is received in evidence, it should be clarified. Since it is manifest that we are not accountable for that alteration, I submit that your Honor should require that the cause of alteration or the form in which it was originally received be clarified before it is received.

Mr. Lucas: I might say, in answer to that, that

(Testimony of Adeline B. Skinner.)

the witness is here, and if she has any memory of how it was altered she may tell us. The duplicate carbon of that will be included as a part of one of the exhibits to be introduced in a few minutes. From a comparison of the duplicate carbon with this, we can see that it had a proper caption, her name and address on it, and that duplicate carbon comes from the papers that were supplied us by Mr. Danziger and the Wake Development Company.

Mr. Rose: The only trouble with that, as your Honor knows, is that yellow carbon doesn't have the printed stationery head on the original, and I think, your Honor, since this is an altered document, the witness should be called upon to, or at least opposing counsel should clear up the alteration and find out what the original indicated.

Mr. Lucas: I shall do my very best along that line. Will you hand me the exhibit again, please?

Q. By Mr. Lucas: Miss Skinner, have you any recollection of clipping off the top of this letter?

A. I have not; but I suppose I had a reason when I did it.

Q. Do you recall the name, if there was a name, a printed name of any company or any name at all above here (indicating)?

A. Probably I did it just to keep the address; I don't know. I don't make a practice of going through my papers.

Mr. Rose: Counsel, if you will stipulate that original letter when received by the witness in the

(Testimony of Adeline B. Skinner.)

mail bore the printed business head of Wake Development Company——

Mr. Lucas: I will accept that stipulation, because that is our belief, that the top of this document originally—that the document itself was the regular stationery of the Wake Development Company.

Mr. Rose: Yes. I wanted to clear that up. As I informed the court, I am not standing on any technical objections, and I am not making an issue of the fact that the lady may very well have torn that off for the purpose she just indicated: to have the address.

Mr. Lucas: But never having seen it myself, it is only a belief with me; but I will accept the stipulation that it was on the letterhead of the Wake Development Company.

Mr. Rose: With that stipulation, your Honor, there is [206] no objection to its reception in evidence.

The Witness: I would say it was the Wake Development Company, because I was advised to transact my business with the Wake Development Company.

The Court: Admitted.

The Clerk: U. S. 39.

(The document referred to was marked as Government's Exhibit No. 39, and was received in evidence.)

Q. By Mr. Lucas: Now, Miss Skinner, I show you another letter on the letterhead of the Wake

(Testimony of Adeline B. Skinner.)

Development Company dated September 13, 1939, addressed to you; do you remember receiving that letter through the mail?

A. It has been quite awhile since I have seen it. Yes, I just sent in one certificate, and I told them when I came up with the other one I would send it in, and I signed that affidavit, I remember all about that. What is this here? Yes.

Q. There is, in addition to the signature at the bottom of the letter, some writing in the form of a P.S.

A. Well, that's my writing.

Q. That is your writing? A. Yes.

Q. And you placed that on there?

A. Yes.

Mr. Rose: Mr. Lucas, I was just making an inquiry about this. I caught a statement you made. The handwriting [207] in the right margin of that is declared to be the handwriting of this witness?

Mr. Lucas: That is what she says.

The Witness: Yes, that is my writing.

Q. By Mr. Lucas: Now, can you tell me, Miss Skinner, whether or not after you placed that on the letter, this P.S. inscription, whether you again sent this letter out to Wake Development Company, or whether you put that on there for your own information?

A. I think I did it for my own information.

Q. It is not your belief or contention now that—

A. Because right away as soon as I heard from the company I got my check and sent it. I didn't

(Testimony of Adeline B. Skinner.)

delay even a day, and I don't think I would have time to send that.

Q. I wanted to get your best belief. The penciled pen and ink writing there under "P.S." was not, then, sent back to the Wake Company?

A. I don't think so.

Mr. Lucas: We offer this now as the government's exhibit next in order.

The Clerk: U. S. 40.

The Court: Admitted.

(The document referred to was marked as Government's Exhibit No. 40, and was received in evidence.)

Q. By Mr. Lucas: I show you, Miss Skinner, a 2-page document on the letterhead or containing the printing [208] "Great Eastern Natural Gas Company, 927 Market Street, Wilmington, Delaware"; you were a shareholder of the Great Eastern, were you? A. I was.

Q. I will ask you to examine this and tell me if you received that on or about or some time near the date which it bears.

A. Yes, I was in correspondence with them. Yes, that is just about when I was beginning to receive the letters from the Trinidad.

Mr. Lucas: We offer this as the government's exhibit next in order.

Mr. Rose: We object to this exhibit on the following grounds, severally: that there is no proper foundation laid to indicate at whose instigation or by reason of what conditions and circumstances this

(Testimony of Adeline B. Skinner.)

letter was caused to be transmitted to this witness, and ask the court to rule that this exhibit be identified only at this time until such proofs are offered to establish the circumstances under which this instrument was caused to be transmitted.

The Court: What has she just said about it?

Mr. Lucas: She said she was a stockholder of the Great Eastern Natural Gas Company and she received that through the mail, and about that time she also began receiving other communications about Trinidad. I fully believe that at the present moment that is sufficiently premised or a proper [209] foundation has been laid. I don't know whether your Honor has been able to keep up with us here in the reading of all this number of exhibits that we have in.

The Court: I noticed the date on it, '35.

Mr. Lucas: The exhibits we have in clearly show, if my memory is clear on the matters that have gone in the record, that they were circularizing the Great Eastern stockholders to transfer their stock, a plan whereby Great Eastern stockholders exchanged stock for Trinidad. If that is not sufficiently shown in the record at the present time, I will ask that it be marked as an exhibit for identification.

The Court: All right, just identify it for the present.

The Clerk: 41, for identification.

(The document referred to was marked as

(Testimony of Adeline B. Skinner.)

Government's Exhibit No. 41, for identification.)

Q. By Mr. Lucas: Miss Skinner, I show you another document on the letterhead of Trinidad International Petroleum Limited, and this document is not dated, so far as I know, and I will ask you to examine that and tell me if you received that through the mail. What is your answer, Miss Skinner, if you made one while I was at the counsel table?

A. Yes, I remember getting this.

Q. Do you now remember getting this?

A. Yes, I do.

Mr. Lucas: We offer this now for identification, taking [210] an exhibit number regularly in order.

I notice, your Honor, that this on the letterhead of Trinidad International Petroleum and I, therefore, withdraw what I have said about offering it for identification, and I offer it in evidence. The other being Great Eastern Natural Gas, perhaps we will have to have further foundation; that this is on the letterhead of the Trinidad International Petroleum and I, therefore, think it is admissible.

Mr. Rose: Objection is had to it on the following grounds, your Honor: One, that the foundation is lacking as to the time when this instrument was received. I call your Honor's attention to the fact that this communication refers to an antecedent communication. It says, "We recently sent you an inquiry form referring to your holdings of Great Eastern." I submit that before this communication

(Testimony of Adeline B. Skinner.)

could be received, notwithstanding that it is communication of Trinidad International the former communication should be inquired into, and the date of its reception should be established.

As I have indicated on a number of occasions to the court, I do not make it a practice when trying a case before a Judge to be super-technical and require a waste of time in establishing that the certain bit of evidence has some part in the presentation; but I do try to adhere to the fact that we are entitled to have a foundation laid, and particularly as to the time. Your Honor himself indicated [211] this Great Eastern thing is a communication in '35. If your Honor will note, this over here has no date and refers to a former letter. Now, if a date is established on that, your Honor, there is no objection to its admissibility at all. I think we ought to be at least appraised of when this communication was transmitted, and what relationship it bears to any of the acts concerning which the testimony has been received here in this trial.

Is Mr. Mainland prepared to give us the date of that thing?

Mr. Lucas: Are you through, counsel?

Mr. Rose: Yes.

Mr. Lucas: If the court please, the point of that is this: It is on the printed letterhead of the Trinidad International, and obviously if it was printed by them they were the ones responsible for not putting on the date. I will be very happy to interrogate the witness about her memory on the subject, wheth-

(Testimony of Adeline B. Skinner.)

er or not she can now recall approximately the date she received it. But its failure to have a date is due to the persons who printed it, and it itself refers to another dated document. Of course, we all know that these dates on printed materials—that the document could be sent out at any time long after the date it bears.

Mr. Rose: That is precisely my point. In other words, if we are sought to be charged with a reception, by this [212] witness, of this undated document, both the defendants and his Honor certainly should know when this communication was received by this witness. I am not quibbling about the particular day or week, for that matter; I want to have some approximate time. If it was in 1935 we ought to know that.

Mr. Lucas: Its admissibility, your Honor, is not determined in any manner by its date. We contend that it contains the signature of J. M. Danziger, and the matter of the date is their responsibility, or lack of date, rather, and it only goes to its effectiveness rather than admissibility.

The Court: When do you claim the conspiracy was formed?

Mr. Lucas: We do not allege a definite date.

The Court: What is your claim now?

Mr. Lucas: Our claim now, as will be offered by proof, is that the conspiracy was formed prior to 1935, at or about that year, we shall say. Evidence will go in on that in the formal of oral testimony.

(Testimony of Adeline B. Skinner.)

The Court: Ask her now if she knows anything about the date she received it, and get on with our work.

Q. By Mr. Lucas: Can you, by examining this, Miss Skinner, tell us approximately when you received it?

A. About 1935, I should say. That was the year in which I got all these communications.

Mr. Rose: What is the last part of it? [213]

Mr. Lucas: That is the year in which I got all these communications.

We now renew our offer that it be marked in evidence, if the court please.

The Court: It is admitted.

Mr. Rose: No objection, with that foundation, some time in '35.

The Clerk: 42.

(The document referred to was marked Government's Exhibit No. 42, and was received in evidence.)

Mr. Lucas: Counsel, I show you a file which the Securities and Exchange Commission received from Mr. Danziger. I think you have a photostat of every document that is in it.

After having first shown to counsel the next exhibit, and having previously supplied counsel with photostatic copies of these documents which I now have in my hand and am about to offer, I desire that the record show that before offering them as one exhibit I have unfastened the staple and removed from the exhibit a carbon copy, a letter dated Oc-

(Testimony of Adeline B. Skinner.)

tober 9, 1939; that I removed that from the exhibit and will offer it separately; and that I now clip back together the remaining papers in it and offer them in evidence as having come from the files of the Wake Development Company and delivered to the Securities and Exchange Commission by Mr. Danziger.

Mr. Rose: We attest to the fact that that is the case; [214] that these documents, in addition to all of the other files and documents, were turned over on request, and that these are the documents that were in the files of the Wake Development Company, and that the communications reflected in this number of exhibits were transmitted to the parties therein indicated by the parties whose signatures appear to be thereon reflected.

Mr. Lucas: And will you also agree——

Mr. Rose: We will also stipulate that that is a true copy of a letter transmitted to this witness on or about the date it bears.

Mr. Lucas: You are now speaking of the carbon copy which I detached from the other exhibit, dated October 4, 1939, addressed to Adeline B. Skinner, 6 West Main Street, Farmingdale, and containing the handwriting below "J. M. D. Pres."?

Mr. Rose: Yes. Except I think in connection with this stipulation it ought to be stipulated that the original of that, as distinguished from the carbon impression you refer to, was on the stationery of the Wake Development Company.

Mr. Lucas: That's right.

(Testimony of Adeline B. Skinner.)

Mr. Rose: No objection, your Honor.

Mr. Lucas: I ask that the first exhibit take a number and that this take a separate number.

The Court: It may be marked. [215]

The Clerk: 43 and 44.

Mr. Lucas: The reason I separated that exhibit, if the court please, is because that is count 11, I believe, of the indictment, the peace of mailing set forth in count 11.

Mr. Rose: Your Honor will note, in connection with the last exhibit, that clarifies the inquiry your Honor was making about the endorsement; the very last paragraph.

Q. By Mr. Lucas: I want to show you Government's Exhibit 43. The first letter on the top of that file is in your handwriting? A. Oh, yes.

Q. I show you another letter purportedly in your handwriting. Is that yours?

A. Yes, it is.

Q. A postcard; is that yours?

A. Yes, that is what I wrote.

Q. Another letter in your handwriting. Did you write it? A. Yes, yes.

Q. And another one? A. Yes.

Q. Now, on the top of the last one which I have just shown you in your handwriting——

A. This one back here?

Q. No; this one right here (indicating). This is on ordinary stationery without any letterhead. You didn't have [216] any letterhead or monogram or anything on your stationery?

(Testimony of Adeline B. Skinner.)

A. I don't know. But my date and everything was there. Who took that off?

Q. On the upper right-hand corner of this document it is visible that a tear has been made and part of the paper removed. Do you have any knowledge of that? A. No.

Q. Was it in that condition when you sent it through the mail?

A. I don't think I would send anything like that, I never have before, with something torn off.

Q. I am asking you to the best of your recollection to tell us did you tear that off.

A. No, I would say not.

Q. And the signature on the form is yours?

A. Yes.

Q. Very well.

The Court: Did you intend to introduce 44 and 45?

Mr. Lucas: Yes. I understood they were admitted, your Honor.

The Court: Not formally.

The Clerk: 43 and 44.

Mr. Lucas: I now offer them in evidence, if the court please, as the government's exhibits in regular order.

The Court: Make your offer separately.

Mr. Lucas: I offer 43, first, the file as given to us—— [217]

The Court: Are they Nos. 43 and 44?

The Clerk: 43 and 44.

(Testimony of Adeline B. Skinner.)

The Court: All right. You are now offering 43?

Mr. Lucas: Counsel has no objection.

Mr. Rose: I thought your Honor admitted that.

The Court: 43 is admitted.

Mr. Lucas: 44 we now offer.

The Court: 44 is admitted.

(The documents referred to were marked as Government's Exhibits Nos. 43 and 44, respectively, and were received in evidence.)

Q. By Mr. Lucas: Miss Skinner, in connection with Exhibit 43, I call your attention to a Post Office return receipt, showing on the front or address side thereof the words "Returned to Wake Development Company, 408 South Spring Street," and on the other side where the person receiving it signs, there is a name, and I know that it is not yours; do you have any knowledge of whose name that may be? I now show you Government's Exhibit 38 in evidence, being a cashier's check, and ask you to give your attention to the signature on that cashier's check.

A. Yes, he is the cashier of the bank, Warren A. McGill.

Q. Signed W. A. McGill on the check?

A. Yes.

Q. Do you believe that to be his signature on the [218] return receipt?

Mr. Rose: Just a moment. I submit that the instrument speaks for itself and her belief is immaterial. I don't understand. We have stipulated that it may be received, and that the instruments re-

(Testimony of Adeline B. Skinner.)

flect what they purport to reflect. Now counsel is trying to qualify this witness to venture an opinion on handwriting. I don't understand why it is essential or necessary. I certainly object to it.

Mr. Lucas: I will submit to a ruling, your Honor. It is a return receipt, and counsel has stipulated, and I am perfectly happy to accept a stipulation that Government's Exhibit 44 was mailed and received by Miss Skinner; but I notice a return receipt in the file there signed by a banker, and I was just wondering if this witness could clarify it. That is the only purpose I have.

Mr. Rose: You are asking her if that is his signature; and I submit she is not qualified as a handwriting expert.

Mr. Lucas: That is preliminary. I wanted to find out from the witness if there is any explanation she could make of how the bank happened to sign the return receipt.

Q. By Mr. Lucas: Do you have any recollection of that, Miss Skinner?

A. It is very vague.

Q. Very well. I just thought I would pursue every available chance.

Mr. Lucas: You may cross examine. [219]

Cross Examination

By Mr. Rose:

Q. Miss Skinner, since the adjournment yesterday afternoon have you discussed what you would testify to here today with anyone?

(Testimony of Adeline B. Skinner.)

A. Have I done what?

Mr. Rose: We will have the reporter read the question.

(The question was read.)

The Witness: No.

Q. By Mr. Rose: Did you talk to any of the persons that are sitting at the counsel table here?

A. No.

Q. After adjournment?

A. Well, my lawyer.

Mr. Rose: I didn't hear the answer.

(The answer was read.)

Q. By Mr. Rose: You discussed it with your lawyer since the adjournment yesterday?

A. We looked over the records this morning was all. I wanted to refresh my memory a little bit.

Q. You just wanted to refresh your memory?

A. Yes, on some of these things. It is a long while since I have seen them.

Q. Did you discuss with Mr. Mainland or Mr. Lucas here, who sits at counsel table, that you omitted to tell us everything yesterday afternoon?

A. Yes, I told Mr. Lucas that I had, really, the principal thing that I wanted to say.

Q. You told him you had omitted it?

A. Yes, that Mr. Edwards had said that he was around buying up the notes, and that he would give me \$350.00.

Q. Well, did you discuss with them, or did they suggest that some other man called on you?

A. Oh, no. Nobody needed to suggest that; that

(Testimony of Adeline B. Skinner.)

is very fresh in my mind that another man called on me.

Q. What did he look like?

A. Well, he was rather taller than this first one, and it was very late in the evening, and I couldn't identify him if I was to see him.

Q. You could not identify him? A. No.

Q. Did he give you a card of any kind?

A. No, he didn't. He was disposed to talk about many other things than the thing I thought he would want to talk about, but at last he talked in regard to the exchange of the stock and notes. For a little while I thought he had come there to entertain me.

Q. Well, did he?

A. No, I wasn't particularly interested.

Q. You said——

A. He said the company had asked him to come and just interview me and get a verification of what I had—of the facts I had sent in to the company.

Q. What company did he tell you had sent him?

A. The Trinidad.

Q. When this gentleman who is over in the remote part of the court room there, that you identified as Mr. Edwards—— A. Yes.

Q. —when he called on you what did he tell you?

A. He just said the first thing, "I understand you own Great Eastern"—or "Trinidad International stock and notes." He said, "I am around buying them up."

(Testimony of Adeline B. Skinner.)

Q. Did he tell you that he was representing the Great Eastern Company?

A. No, he didn't say that.

Q. Did he mention the Great Eastern?

A. We talked about that, that would be the exchange, I told him I owned Great Eastern Natural Gas Company, but I had never exercised my rights.

Q. Did he tell you he was representing the Great Eastern Company? A. No, he didn't.

Q. Did anybody that called on you tell you he represented the Great Eastern Company?

A. There is one thing he said about them. He said they were very smart men at the head of the Great Eastern Natural Gas Company.

Q. That is Mr. Edwards told you that?

A. Yes. [222]

Q. That the heads of the Great Eastern were very smart men? A. Yes.

Q. Did he tell you he had been connected with the Great Eastern Company?

A. No, he did not. He said his present business was selling Canadian gold stock.

Q. He said his business was selling Canadian gold stock? A. Yes.

Q. Did he try to sell you any? A. No.

Q. Did you ask him anything about it?

A. No, I didn't want to know anything about them.

Q. But he told you that was his present——

(Testimony of Adeline B. Skinner.)

A. That was his present business at the present time.

Q. That he was selling that stock?

A. Yes.

Q. Gold mine stock?

A. Yes, Canadian. He told me what he was making, and all that.

Q. What did he tell you he was making?

A. Well, I don't recall. I wasn't interested.

Q. Do you remember any part of that conversation of what he told you about this Canadian stock?

A. He said he wasn't making big money, but he was [223] making something. That is about all it was.

Q. Is that all you remember about that conversation?

A. Yes, that was just about all. As we sat there and talked, he said he would outline a letter for me to send into the Trinidad, stating the facts and all. I let him do it.

Q. You told us that yesterday. Then you sent in a letter——

A. I didn't send his letter.

Q. You sent your own? A. Yes.

Q. You told us about that yesterday afternoon. In regard to the Trinidad Corporation stock, as I remember your testimony yesterday, the only thing he said about that is that it had potential earnings as an oil company. A. Yes.

Q. That is all he said about that?

(Testimony of Adeline B. Skinner.)

A. Yes, in New Mexico.

Q. In New Mexico? A. Yes.

Q. Miss Skinner, did you ask him to show you a prospectus of any kind? A. No, I didn't.

Q. Incidentally, did anyone show you a prospectus at any time? A. No. [224]

Q. You have examined the various letters which you have identified as being in your handwriting.

A. Yes, they are all my writing.

Q. So far as your memory serves you, the various letters in your handwriting, which form a part of Exhibit 43 here, you have gone over these, haven't you? A. I have.

Q. And to the best of your memory, Miss Skinner, these are all of the communications you remember——

A. Yes; I may have had a few others, but I probably didn't consider them very important.

Q. You mean you have received some others that you probably destroyed?

A. Yes, although I won't be positive about that.

Q. One more question and then I am finished, Miss Skinner. I want to clear this up. When this gentleman Edwards here, who is identified as Carter, called on you, he told you that his business at that time was selling some gold mine stock of a Canadian Company?

A. He said that was his business at that time, but he didn't say he had any other.

Q. He didn't mention he had any other business? A. No.

(Testimony of Adeline B. Skinner.)

Mr. Rose: That will be all.

Mr. Lucas: No further questions.

(Witness excused.) [225]

Mr. Lucas: May we have the usual morning recess at this time before I call another witness, your Honor?

The Court: Before I excuse Dr. Hazleton, do you want to question him further?

Mr. Rose: Your Honor, for a moment I was wondering if I ought to canvass that situation, but I think we all have that pretty well in mind, and I don't think we would gain anything by going over it again. That is the only thing I had in mind.

The Court: You may be excused, Dr. Hazleton.

Mr. Lucas: You are excused from further attendance, doctor.

(Witness excused.)

(Short recess was taken.)

HAROLD J. McCOY,

called as a witness by and on behalf of the government, having been first duly sworn, was examined and testified as follows:

The Clerk: State your name.

The Witness: Harold J. McCoy.

Direct Examination

By Mr. Lucas:

Q. What is your address, Mr. McCoy?

(Testimony of Harold J. McCoy.)

A. 541 Grant Street, Cadiz, Ohio.

Q. What is your business or occupation? [226]

A. City mail carrier.

Q. In that city of Cadiz? A. That's right.

Q. Do you know a man by the name of Carter?

A. No, I don't.

Q. Do you know a man by the name of Baker?

A. I know a man by the name of Baker.

Mr. Lucas: Will you please stand up, Mr. Carter.

(Mr. Carter stood up.)

Q. By Mr. Lucas: Is the man standing in the court room now, in response to my question, the man whom you knew as Baker?

A. Yes.

The Court: Where do you live?

The Witness: Cadiz, Ohio.

The Court: Ohio?

The Witness: Ohio.

Q. By Mr. Lucas: When did you meet Mr. Baker or Mr. Carter?

A. Sometime in '38, I believe.

Q. Do you know what part of the year, approximately? A. Well, it was the first part of it.

Q. The early part of the year 1938?

A. Yes.

Q. Did you meet him in company with anybody else, or was he alone? [227]

A. He was alone.

Q. And just tell us now what he said to you and what you said to him.

(Testimony of Harold J. McCoy.)

Mr. Rose: Just a moment. To which we object on the ground that no proper foundation has been laid for the reception of any conversation had with Mr. Carter, identified by this witness as a Mr. Baker; on the ground that there is no foundation laid to connect us with Baker's privy, or any conversation; on the further ground that they are hearsay and incompetent, as against the defendants on trial.

The Court: He may answer.

Mr. Rose: May an exception be noted?

The Court: Exception allowed.

Q. By Mr. Lucas: Go right ahead.

A. One evening I got a call over the telephone, and he wanted to know if this was McCoys, and I told him yes. He said he wanted to know if I had any Great Eastern Natural Gas stock. I told him I had. Well, he said he wanted to talk to me about it, so finally later on he come to the house. We sat there and talked for quite awhile, and he said he had a great proposition to make me. He said for each share of Great Eastern Gas stock I would get one share of Trinidad International stock and one profit-sharing note, for each share of Great Eastern; the Trinidad, he said, was worth \$2.00, he said, and the profit-sharing note anywhere up to \$4.00. He said if I hadn't exercised my rights to [228] have it traded in, for me to write to the Wake Company and find out about it.

Q. What else did he say?

A. Well, that was all at that particular time.

(Testimony of Harold J. McCoy.)

Q. Later on did you write to the Wake Company?

A. Later on I wrote them, I think you have all the letters there; I wrote to them and they wrote back to me and said they would look it up and see if I had the rights, or whether I had been given the rights to trade this stock in.

Q. Was anything said by Carter or Baker with regard to the terms of the trade in or exchange that you spoke of?

A. He said he would buy the stock. He had a man that would buy the Trinidad International, and also the profit-sharing notes, after I had traded in.

Q. After you had——

A. After I had made the deal with the Wake Company he would take them off my hands, and he had somebody to sell them to.

Q. You mentioned something about the right.

A. They claimed that you would have to have a right to get the trade-in. Since I hadn't exercised my right, I had a chance to trade in my stock, after some delay.

Q. You are still on the conversation with Carter? A. That's right, Baker.

Q. How long did this conversation last? [229]

A. He was probably there half an hour or so; I just don't know the exact time.

Q. Can you now recall anything else that he said in that half hour?

A. I think that was probably what he gave me, on the trade in, at that particular time.

(Testimony of Harold J. McCoy.)

Mr. Rose: I take it, your Honor, without interrupting, that where an objection has been interposed and a ruling had to a conversation, that if there is any enlargement of that particular conversation, that it will not be deemed that I am waiving my objection to the conversation by not interrupting to renew the objection to the segments of the same conversation?

The Court: Not so far as I am concerned, Mr. Rose.

Mr. Rose: Very well.

The Witness: He did say that they had oil wells in the West Indies.

Q. By Mr. Lucas: Go ahead and recall anything that he said to you in that half hour.

A. He also said it was listed on the London Stock Market.

Q. Do you recall anything else that he said?

A. That's about the limit of that particular conversation.

Q. All right. Was anything said about whether he would return? [230]

A. No, he didn't say.

Q. Did he return? A. He didn't.

Q. Did you ever receive any communication from him after that?

A. Lots of them; he kept the telephone hot.

Q. From Carter now? A. Baker.

Q. We are still talking about Baker or Carter?

A. I am talking about Baker.

Q. Did you receive communications from him?

(Testimony of Harold J. McCoy.)

A. Over the telephone. [231]

Q. Now, when, after he was personally there, did you hear from him by telephone?

A. We had two or three letters back and forth from the Wake Company, first.

Q. All right; we will pass that for the moment. We are staying on Mr. Carter.

A. This other kind of jibes with it.

Mr. Rose: What was that?

(Answer read.)

Mr. Rose: I move that be stricken as unintelligible and a voluntary statement.

The Court: Denied.

Mr. Rose: Exception.

The Court: Exception allowed.

Q. By Mr. Lucas: Tell us about the telephone conversation with Carter.

A. After so long a time he called me up and said if I would send 10 per cent of the stock in, 10 cents on the dollar, you know, that would bind me down so I could buy the rest of the stock.

Q. Were you at that time he was talking to you a holder of Great Eastern Natural Gas stock?

A. I was.

Q. How many shares did you hold?

A. 2,750.

Q. How many? [232] A. 2,750.

Q. What else was said by Carter and by you? I want you to relate what you said to Carter on this telephone conversation, as well as what he said to you.

(Testimony of Harold J. McCoy.)

Mr. Rose: I object to it on the further grounds heretofore interposed, and add to the said grounds the fact that no foundation is laid; it calls for a conclusion and opinion of the witness.

The Court: You may answer.

Mr. Rose: May an exception be noted?

The Court: Exception allowed.

A. I told him I would do as he said, send him 10 per cent, which I did, in the amount of \$275.00.

Q. By Mr. Lucas: Who did you send this to?

A. To the Wake Company.

Q. Was that what he had told you?

A. That is what he had told me to do.

Q. After that did you hear from Carter again, either in person or by telephone?

A. I heard from him several times, but in the meantime another fellow appeared on the scene.

Q. All right. Let's get to that. Another man came on the scene before you next heard from Carter?

A. That's right, Baker.

Q. Tell us how soon this second man appeared after Carter's first personal visit. [233]

A. Well, I suppose time enough for that check to get to Los Angeles.

Mr. Rose: I move that be stricken, your Honor, as a conclusion and opinion of the witness, argumentative and not responsive to the question.

The Court: Stricken.

Q. By Mr. Lucas: In terms of weeks or days.

A. The check went by air mail, and probably a week later.

(Testimony of Harold J. McCoy.)

Mr. Rose: I move that answer be stricken as not responsive.

The Court: Denied.

Q. By Mr. Lucas: This second man, did he give you a name?

A. Dawson.

Q. And he was not Mr. Baker?

A. No, he wasn't Mr. Baker by any means.

Q. And was Dawson alone?

A. He was alone.

Q. Now, tell us what Mr. Dawson said to you.

Mr. Rose: Just a moment. Object to any conversation with the so-called Mr. Dawson upon the following grounds, severally: It affirmatively appears from the testimony of this witness that the so-called Mr. Dawson is not a reputed party to the offenses herein charged, that his identity is unknown and not established, and that any conversation had [234] with Mr. Dawson, whoever he may be, is not shown by any foundational facts to be pertinent, relevant, and certainly not binding on the defendants on trial; and we object to it on the ground that it is hearsay and incompetent.

The Court: Will you connect Dawson up with Carter?

Mr. Lucas: I urge at this time, your Honor, that the matter go in, because we will connect it up by showing him, first, by the testimony of this witness, to be connected with it, and by the testimony of another witness, namely, the witness Carter, who will supply any missing link.

(Testimony of Harold J. McCoy.)

The Court: All right. Admitted.

Mr. Rose: May an exception be noted?

The Court: Exception allowed.

Q. By Mr. Lucas: Go ahead and tell us what Dawson said to you.

A. This man Dawson said he had a man in California that was working out to transfer this stock, and they would have to have 5 per cent on the stock to help pay expenses.

Q. All right. Go ahead.

A. I finally figured, well, it didn't make—they didn't make it the full 5 per cent, I paid in \$130, that wasn't quite 5 per cent of the stock. He was satisfied with it, and he had had a newspaper there that he claimed had the stock market in it, but it was cut out. He said he would bring me a paper that had it in, but he didn't do it.

Mr. Rose: I move all this be stricken as voluntary [235] statements and not responsive to the question, and definitely hearsay and incompetent.

The Court: Denied.

Mr. Rose: Exception noted, please.

The Court: Allowed.

Q. By Mr. Lucas: Go ahead and tell us what he said about this newspaper.

A. He said the market was cut out of this one, but he would bring me one that had it in.

Q. What market?

A. The stock market that carried these notes and Trinidad International. But he never showed up again.

(Testimony of Harold J. McCoy.)

Q. Did you have more than one personal conversation with Dawson? A. No; just the one.

Q. What else did you discuss with him besides what you have already told us?

A. That is practically everything. He talked a little about his family, but I didn't know anything about that.

Q. I am only interested in the stock and the number of shares and things like that. What else did he say?

A. I took him over to the bank and gave him \$130, and that was the end of Mr. Dawson.

Q. After his departure did you communicate with Wake?

A. Well, in the meantime I evidently had a letter from them, and they said they would allow me, I think, 700 shares [236] down, balance in 700 and 600 and 650, until I got my 2,750 shares; that the first 700—this is on Baker—after I got the first 700 shares, that they would sell the Trinidad and the notes, and we would get enough money to lift the next 700.

Q. That is what Baker told you?

A. That is what Baker told me, that's right.

Mr. Rose: Just a second, please. Is it possible to have the witness testify—I was waiting for him to complete his answer so I could address a motion to the court. Would you mind reading that question and answer? Will your Honor permit that?

The Court: Yes.

(The record was read.)

(Testimony of Harold J. McCoy.)

Mr. Rose: From what I understand, your Honor, it was, "Did you receive a communication from Wake?" Now, from the answer, as I interpret it, the witness has endeavored to interpret a document or a communication that he received, and give his opinion of its contents, and has added in the voluntary statement, "This is on Baker."

The Court: Is this what Baker told you, or is this in a letter?

The Witness: Baker told me over a telephone. It was in the letter, too, I believe.

Mr. Rose: Then I move the answer be stricken, your Honor, as not responsive. In other words, that he received [237] a letter is an answer to the question. The letter is the best evidence of what it says and its contents.

The Court: Give us the letter.

Mr. Lucas: I have the whole file here, your Honor; but the way I interpret the witness' answer is he is now recalling many of the things Baker said to him in that half hour conversation, and I want him to exhaust his memory on what was said, and the whole file will be introduced, which is, as counsel says, the best evidence of the contents of the letter.

Mr. Rose: Your Honor has already indicated and made the ruling on the conversation. If he hasn't canvassed him fully, I think this answer should be stricken and we ought to have him relate these conversations over the objections; then when

(Testimony of Harold J. McCoy.)

it comes to communications, resort to them in lieu of the interpretation of the witness.

Mr. Lucas: I will stipulate that that last answer may be stricken, and I will ask the question again, so we can start fresh.

The Court: Stricken.

Q. By Mr. Lucas: Mr. McCoy, tell us anything further that you now recall that was said by Baker, either when he was there talking to you in person, or over the telephone.

Mr. Rose: Just a minute. I am objecting to it on the grounds, severally, that no foundation is laid as to identification, as to the privy persons involved, as to their authorization. [238]

The Court: He may answer.

Mr. Rose: And that it is hearsay and incompetent.

The Court: He may answer.

Mr. Rose: May an exception be noted?

The Court: Exception allowed.

The Witness: I had several of these talks after the first 700 shares arrived. I had a talk with Baker.

Q. By Mr. Lucas: Now, without regard, unless you can specify whether it was the first, second or third, tell me now all the conversation that you recall as having taken place between you and Baker.

A. All the way through?

Q. Exactly.

Mr. Rose: Your Honor has understood that my

(Testimony of Harold J. McCoy.)

objection, upon which your Honor has made a ruling, is applied to this conversation, whatever it is?

The Court: So understood. Go on and tell your story.

The Witness: After the 700 shares arrived and been paid for, and they had written me that I could deal with them——

Q. By Mr. Lucas: How much did you pay for those shares?

A. \$3 a share.

Mr. Rose: Opposing counsel, your Honor, has no regard for trying to maintain an orderly record, apparently. Your [239] Honor has directed this witness to relate all of these conversations. We have the record clear; there has been a ruling of the court, and there has been an exception noted. Now counsel takes him away from the conversation and starts asking him about extrinsic and other matters, other than the conversation, the matter of payment and so forth. I think we ought to have this thing cleared up so the record is clear. He has been asked for conversations, your Honor has directed him to relate them, and I think opposing counsel should stay with that subject until we have it in this record; otherwise I have to keep on interrupting and renewing my objection, under the apprehension that I may be regarded as having been inadvertent in interjecting it again. I ask your Honor to direct counsel to proceed with the subject on which there is a ruling, namely, the conversations with this man Baker, or whatever his name was.

(Testimony of Harold J. McCoy.)

The Court: Go on and tell your story, witness. You go on and tell it the way you would tell it to me if you and I were alone some place.

The Witness: After I got the 700 shares, had them paid for——

The Court: What did you pay for them?

The Witness: \$3 a share.

The Court: Who did you pay that to?

The Witness: Wake Development Company. ^

The Court: Why did you pay them \$3 a share? How did [240] you happen to pay them \$3 a share? You haven't explained that.

The Witness: The man told me——

The Court: What man?

The Witness: Baker.

The Court: Go ahead. Told you what?

The Witness: If I would lift these shares——

The Court: What do you mean "lift these shares?"

The Witness: Buy them. I had 700 shares of Trinidad, 700 profit sharing notes. If I would pay for them, he would take these and sell them so we could redeem the next 700.

The Court: How much would you get for them, did he say?

The Witness: He said Trinidad was worth \$2, and the profit sharing notes up to \$4.

The Court: All right. Now, go on with your story.

The Witness: After we got the first 700, had them all paid for, and they said they would allow

(Testimony of Harold J. McCoy.)

15, 30, or 45 days for the next set, they come in rotation, but before the second 700 was due, Baker calls me us, he says, "Now, if you write in to the Wake Company and tell them to send all of it out, all the balance of the shares," he and Dawson would furnish the money to help lift them, if they were sent to the bank in Cadiz. Well, the shares come.

Mr. Rose: Just a moment. Will your Honor accept a request on counsel's part that your Honor canvass this [241] witness on the subject of conversation, so we can complete that phase of his testimony?

The Court: No. He is doing all right. Go on and finish your story.

The Witness: Where was we?

The Court: I don't know. I think you were in Cadiz.

The Witness: Yes, the stock come to the bank in Cadiz.

The Court: How much stock?

The Witness: Well, the difference between always \$3 a share, three times twenty-seven fifty, whatever that is. He and Dawson would pay the difference, that was in between, after I got the first 700. He was in a hurry, I guess, and wanted to close the deal up. He said,—

Mr. Rose: Just a second. I move that that latter statement be stricken as a voluntary remark and observation of the witness.

The Court: Denied.

Mr. Rose: May an exception be noted?

(Testimony of Harold J. McCoy.)

The Court: Exception.

Finish your story.

The Witness: He said he had a man to buy this stock; he wouldn't buy 700 shares of the stock, but he would buy it all. So he was in a hurry to get the deal closed. So it came to the bank on a Friday, I believe; of course the bank closes Saturday noon, and I think I had a call from him from some place, probably Philadelphia, that is where he came from, [242] operator 26 Philadelphia——

Mr. Rose: I move that statement be stricken as a voluntary supposition on the part of the witness, and not responsive to any question.

The Court: Denied.

Mr. Rose: May an exception be noted?

The Court: Yes. Continue your story.

The Witness: So he left the call at the Post Office for me to get in touch with this operator, so after I got through work I called him up. Well, he told me if I would go ahead and lift the stock—it was impossible for he and Dawson to get there—that they would pay me when they did come for the stock. So the bank didn't look very well upon the transaction. I failed to get any money from them. They got in touch with someone in California——

Mr. Rose: Just a moment. I move that be stricken, your Honor; it obviously is a conclusion and opinion of the witness. I interpret that last observation that he is talking about something the bank said.

(Testimony of Harold J. McCoy.)

The Court: You tried to borrow money from the bank, and they wouldn't lend it to you?

The Witness: That's right.

The Court: Then what happened?

The Witness: Then——

The Court: Not about the bank; then what happened to the stock? [243]

The Witness: Returned it.

The Court: It was returned to——

The Witness: Wake Development Company.

Q. By Mr. Lucas: Did you have a further telephone conversation with Baker or Dawson after the stock was returned?

A. Baker called me up from some place, and he was made as an old wet hen, he said, because I didn't lift the—he wouldn't sell the first 700 because I hadn't lifted all of it.

Q. The first of the second 700?

A. No; all the rest of it. We were to deal for the whole batch after we got the first 700. He called me up because I hadn't lifted the rest of the stock, that he wouldn't try to sell the first 700 for me, and he hung up the receiver, and that's the last of him.

Q. Did Dawson get ahold of you after that?

A. He didn't. It was in between.

Q. Did you ever hear any more from either of them? A. Never another word.

Mr. Lucas: Let the record show that I am now showing counsel the files that were given by the Wake Development Company and Trinidad and

(Testimony of Harold J. McCoy.)

Mr. Danziger to the Securities and Exchange Commission, and that counsel has in his possession photostatic copies of all the file, furnished him some time last week. [244]

Mr. Rose: I can't go along with that, without looking at them, as to whether I have or not. Do you mind my looking at them?

Mr. Lucas: No, no objection whatever.

Mr. Rose: Your Honor, it appears from my offhand examination here that they are in error about my having copies, and this is quite a voluminous document; I thought we might save your Honor's patience while I go through them, it might take at least 10 or more minutes. It will save time if it is agreeable with your Honor. We are willing to do that on our own time and get back 10 minutes earlier.

The Court: We are not making satisfactory progress. I am going to do something about it pretty soon. Go ahead and ask something, so we can work at least to 12:00 o'clock.

Mr. Lucas: I wanted to get that in.

The Court: I know you did, but do something else.

Mr. Lucas: The only thing I can go ahead with, your Honor, is the originals of many of the carbons that are in that file. I can have this witness identify them, the originals, as having been received by him.

The Court: All right.

Q. By Mr. Lucas: I show you a letter ad-

(Testimony of Harold J. McCoy.)

dressed to you, Mr. McCoy, dated February 14, 1938, on a letterhead of Wake Development Company, and ask you if you received that letter, and if the envelope attached to the letter is the [245] envelope that it came in.

A. That's right.

Mr. Lucas: I hand counsel a copy of that, if he can't find the one he has.

I ask that this be marked as the government's exhibit next in order.

Mr. Rose: No objection to it.

The Court: Admitted.

The Clerk: 45.

(The document referred to was marked as Government's Exhibit No. 45, and was received in evidence.)

Q. By Mr. Lucas: I show you another letter on the letterhead of Wake Development Company, dated February 26, 1938, together with an envelope, an air mail envelope, and ask you if you received that letter in the envelope which is connected with it.

A. That's right.

Mr. Lucas: I ask that the letter and envelope be marked as the government's exhibit next in order.

The Court: Admitted.

The Clerk: 46.

(The document referred to was marked as Government's Exhibit No. 46, and was received in evidence.)

(Testimony of Harold J. McCoy.)

Q. By Mr. Lucas: I show you another letter on the letterhead of Wake Development Company, dated March 2, 1938, together with an envelope, and ask you if you received the [246] letter in the envelope that is attached to it.

A. That's right, I did.

Mr. Lucas: I offer this as the government's exhibit next in order.

Mr. Rose: May I take a glance at it?

Mr. Lucas: You have photostats of that, if you will just find them.

Mr. Rose: I haven't looked at these you just showed the witness. I am not making any point of it. No objection.

The Court: Admitted.

The Clerk: 47.

(The document referred to was marked as Government's Exhibit No. 47, and was received in evidence.)

Q. By Mr. Lucas: I show you another letter on the letterhead of Wake Development Company under date of March 14, 1938, to which is attached an envelope, and ask you if you received the letter in the envelope that is attached.

A. That's right, I did.

Mr. Lucas: I ask that this be introduced in evidence as the government's exhibit next in order.

Mr. Rose: No objection.

The Court: Admitted.

The Clerk: 48.

(Testimony of Harold J. McCoy.)

(The document referred to was marked as Government's Exhibit No. 48, and was received in evidence.)

Q. By Mr. Lucas: I show you another letter under [247] date of March 29, 1938, on the letter-head of Wake Development Company, to which is attached an envelope, and ask you if you received the letter in the envelope that is now attached to it.

A. I did.

Mr. Lucas: I ask that this be introduced as the government's exhibit next in order.

Mr. Rose: No objection.

The Court: It is admitted.

The Clerk: 49.

Mr. Rose: Just a second, counsel. Excuse me. I note on the envelope attached to this exhibit there appears something in pencil writing.

Mr. Lucas: I can ask the witness about it.

Q. By Mr. Lucas: Mr. McCoy, on the envelope attached to the letter of March 29th there is some handwriting, the name "Albert Dawson, 1221 Walnut St., Philadelphia, Pa.;" in whose handwriting is that?

A. That is mine. I had the letter in my pocket when Dawson was there. That was supposed to have been his address.

Q. That was put down by you at the time you were talking to Dawson?

A. Yes, that's right.

The Clerk: 49.

The Court: 49 is admitted.

(Testimony of Harold J. McCoy.)

(The document referred to was marked as Government's Exhibit No. 49, and was received in evidence.) [248]

Q. By Mr. Lucas: I show you another letter under date of April 29, 1938, on the letterhead of Wake Development Company, to which is attached an envelope, and ask you if you received the letter in the envelope to which it is now attached. A. I did.

Mr. Lucas: I ask that this be introduced in evidence as the government's exhibit next in order.

Mr. Rose: No objection.

The Court: Admitted.

The Clerk: 50.

(The document referred to was marked as Government's Exhibit No. 50, and was received in evidence.)

Q. By Mr. Lucas: I show you another letter on the letterhead of Wake Development Company, under date of August 10, 1938, attached to an envelope, and ask you if that is the envelope in which you received the letter.

A. You are right, I received it.

Mr. Lucas: I ask that this be introduced in evidence as the government's exhibit next in order.

Mr. Rose: No objection.

The Court: Admitted.

The Clerk: 51.

(The document referred to was marked as Government's Exhibit No. 51, and was received in evidence.)

(Testimony of Harold J. McCoy.)

Q. By Mr. Lucas: I show you a letter on the letterhead [249] of Wake Development Company under date of May 25, 1938, to which is attached an envelope, and ask you if you received the letter in the envelope now attached to it.

A. I received it.

Mr. Lucas: I ask that this be introduced in evidence as the government's exhibit next in order.

Mr. Rose: Just a second, counsel. May I inquire of you, Mr. Lucas? Apparently the witness here has used the envelopes in making pencil memoranda in certain instances. You are not offering that pencil memoranda, are you?

Mr. Lucas: Let me look at it first, and then I may interrogate the witness about it.

Q. By Mr. Lucas: On the back or reverse side of this envelope there are certain notations; I will ask you to look at that and tell me whether it is in your handwriting.

A. No. That was just used for a memorandum. It had nothing to do with the case.

Mr. Lucas: I will accept the statement of the witness, and we are not offering the pencil memoranda on the reverse side of the envelope.

Mr. Rose: To clear the record, you are merely offering the letter and the envelope as distinguished from any memoranda in pencil?

Mr. Lucas: On the back of the envelope.

Mr. Rose: Thank you. No objection to this, your Honor.

The Court: Admitted. [250]

(Testimony of Harold J. McCoy.)

The Clerk: 52.

(The document referred to was marked as Government's Exhibit No. 52, and was received in evidence.)

Q. By Mr. Lucas: I show you a letter on the letterhead of Wake Development Company under date of May 15, 1938, addressed to you, purportedly signed J. M. Danziger, to which there is not attached any envelope and ask you if you recall receiving that letter through the mail.

A. Yes, I received it.

Mr. Lucas: I offer this in evidence as the government's exhibit next in order.

Mr. Rose: No objection, your Honor.

The Court: Admitted.

The Clerk: 53.

(The document referred to was marked as Government's Exhibit No. 53, and was received in evidence.)

The Court: 2:00 o'clock.

(Whereupon, at 12:00 o'clock noon, a recess was taken until 2:00 o'clock p. m.) [251]

Los Angeles, California,
Thursday, January 18, 1945, 2:00 p.m.

HAROLD J. McCOY

resumed the stand as a witness on behalf of the government and, having been previously duly sworn, testified further as follows:

(Testimony of Harold J. McCoy.)

Mr. Lucas: At this time we offer in evidence a file of papers clipped together here which the Securities and Exchange Commission's representatives received from the office of Wake Development Company and Mr. Danziger. We have previously shown it to counsel, and I now show it to counsel. I might say, if the court please, that this file has not all been photostated, so that there are some three or four exhibits in this file that photostatic copies have not been supplied to counsel, and we will arrange to have them photostated and supply him with copies.

Mr. Rose: Your Honor, I have examined this proposed exhibit sufficiently to be familiar with the contents, and if I may be permitted I would like to address a question to your Honor on the subject. In each instance where exhibits have previously been tendered, there has been no objection interposed so long as it related to communications between the defendant and the witness. Now, on the other hand, I take it that counsel for the government is proffering this particular group of communiques on the theory that because they were turned over, upon request of the securities and [252] Exchange Commission, from the office of the Wake Development Company, they, therefore, become admissible by reason of that. I would like your Honor to inquire of counsel if that is his theory, the reason that there are communications here that pertain to a collateral matter and inquiry as distinguished from communications between the de-

(Testimony of Harold J. McCoy.)

fendants and this witness. In other words, I have no objection to all communications being received and considered between any of the defendants and any particular witness. This file contains correspondence, for example, between the District Attorney's office, and such other collateral matters, and between some bank. Now, if your Honor holds that the document is admissible, or the group of documents are, collectively, on the theory that they were turned over to the Securities and Exchange Commission voluntarily, and therefore they are admissible, why, then, of course, my theory of objection would be somewhat different than the one I have in mind at the moment.

I would like to have your Honor's assistance on that point.

Mr. Lucas: I have no desire, of course, to encumber the record, and if counsel will point out to me that which he objects to, I can probably apprise the court quickly whether I will withdraw it as a part of the exhibit, or whether I will attempt to explain to the court the reason why it was included in there. So, if you will just [253] designate to me those particular documents which you object to, I will dispose of them quickly.

Mr. Rose: Let me ask you, counsel, is it your theory, as a matter of law, that because the Wake Development Company turned over the files to the Securities and Exchange Commission, that therefore the file or any part thereof becomes competent?

(Testimony of Harold J. McCoy.)

Mr. Lucas: I don't think the court would be interested in my theory of the law. In regard to this particular thing, I am offering it on the same theory that I announced yesterday, it being a record of the business transactions between two of these defendants, and, perhaps, all three, and this witness, reflecting the manner in which they did business back and forth, and coming to us from the unimpeached source it is admissible.

Mr. Rose: My point is, your Honor, to get down to the fundamental—that is what I had in mind. It wasn't incumbent upon any of these defendants to turn over any document to the Securities and Exchange Commission whatsoever. There is no proviso in the statute or laws, in a matter of this character, that compels the proposed defendant to voluntarily surrender documents, just because some government agency makes inquiry. There is a distinction in such matters as taxation, and so forth. We are very much familiar with that.

I take the position, and I have throughout, here, that [254] wherever a witness is called, and your Honor has permitted him to testify, any communication of any character or description passing between the witness and the Wake Development or the Trinidad Company, or Mr. Danziger, is clearly competent and admissible. On the other hand, there are matters which are, necessarily, *res inter alios acta* that find themselves in the file, and communications between third parties. Merely because they

(Testimony of Harold J. McCoy.)

are in this file or make mention of the subject here doesn't make them admissible. That is the point.

Mr. Lucas: As I say, your Honor, until counsel points out to me the particular document, I have no way of answering what he has to say.

Mr. Rose: Well, I have no objection—we can eliminate that by a process of elimination. I have no objection to any communication between Trinidad Company and this witness, between the Wake Development Company and this witness, between Mr. Danziger and this witness, or between this witness and any of the defendants. My objection goes to certain memorandum, for example, here——

Mr. Lucas: Will you just separate that from the file, and I will handle that separately from the rest of the proffered exhibit. We will withdraw from the exhibit anything that you object to. I will refrain from offering it as a part of this exhibit.

Mr. Rose: Here, for example, is a red pencil memorandum in some handwriting here. [255]

Mr. Lucas: You have my permission to remove that from the exhibit.

You have handed to me, counsel, the segregated documents which remain after you have separated the objectionable ones, and I now offer in evidence the government's exhibit next in order these papers.

Mr. Rose: There is no objection.

The Court: They are admitted.

The Clerk: U. S. 54.

(Testimony of Harold J. McCoy.)

(The documents referred to were marked as Government's Exhibit No. 54, and were received in evidence.)

Direct Examination (Continued)

By Mr. Lucas:

Q. Now, Mr. McCoy, I show you Government's Exhibit in evidence 54, and I call your attention to a letter on McCoy's letterhead, dated February 24, 1938, addressed to the Wake Development Company, and ask if you signed and mailed that letter. A. That's right.

Q. And I call your attention to some handwriting on the back of that letter, and ask you to examine it and tell me if the handwriting on the reverse side of the letter was on the letter at the time you mailed it. A. It wasn't.

Mr. Rose: Wait a second. Hold it. I stipulated they may be received, on the assumption, counsel, that all of [256] these were communications between the parties.

Mr. Lucas: They are. I don't know what that communication is. I just noticed it had some handwriting on it, and I wanted to know if this witness is responsible for it.

Mr. Rose: Obviously not. I see what it is. This is a penciled outline of the letter that is this one here (indicating), if you will note them by comparison. That is one prepared in the office of Wake Development Company, an outline of the letter that follows.

(Testimony of Harold J. McCoy.)

Q. By Mr. Lucas: I show you another letter on McCoy's letterhead dated February 28, 1938; did you write and mail that letter? A. I did.

Q. Another one headed "Cadiz, Ohio, March 12, 1938," not on the letterhead, signed "Harold J. McCoy;" did you write and sign that letter and send it to Wake?

A. I know I didn't write the letter, because I——

Q. Did you dictate or compose the letter? Is that your signature?

A. That is my name at the bottom.

Q. I know it is your name. But is it your signature? A. Well, it evidently is.

Mr. Rose: Your Honor, I move the answer be stricken as indefinite. I think your Honor, in view of my stipulation, that that thing ought to come in without any qualifications. It either is or is not his signature, and we ought to have [257] that cleared up.

The Court: Maybe it can be cleared up. Do you remember the letter? Do you know your signature?

The Witness: That is my signature.

Mr. Rose: Very well.

Q. By Mr. Lucas: I call your attention to another letter on McCoy's stationery, addressed to Wake Development Company, signed "Harold J. McCoy;" is that your signature?

A. That's right.

Q. Another letter on McCoy's stationery dated

(Testimony of Harold J. McCoy.)

April 7, 1938, addressed to Wake; is that your signature? A. That's right.

Q. Now, I call your attention to a carbon copy of a letter April 19, 1930, apparently—if there is any error on that, counsel, I will stipulate to a correction.

Mr. Rose: Isn't the original of that letter in that file?

Mr. Lucas: It probably is; but I want to call the witness' attention to the handwriting at the bottom of that carbon copy.

Q. By Mr. Lucas: That is not in your handwriting, is it? A. No, it isn't.

Q. I call your attention to another letter on McCoy's stationery, dated April 23, '38, and written on both sides, the front side being written, apparently, in ink, and the [258] reverse or second part of the letter being written in lead pencil, and ask you if you wrote, signed and mailed that letter. A. I wrote it all, that's right.

Q. I call your attention to another letter on McCoy's stationery, May 6, 1938, this letter consists of one, two, three, four, five, six pages of writing in ink, and there is a seventh page with a number 7 on it partly in ink and partly in type-writing, and the eighth page—no, and on the reverse side of the seventh page is your signature; is that all a part of one signature?

A. Yes, it is.

Q. Is that your signature?

A. That's right.

(Testimony of Harold J. McCoy.)

Q. Now, I call your attention to a notation on the very first sheet of this letter; it says, "Copy to Wilson May 9;" was that on the letter when you wrote it? A. It wasn't.

Q. Is it in your handwriting?

A. No, it isn't.

Q. Then, I call your attention to another letter on McCoy's stationery dated May 24, '38, and ask you if you wrote, signed and mailed that letter.

A. I did.

Q. I call your attention to another letter on McCoy's stationery, dated June 10, 1938, addressed to Wake, and ask [259] you if you wrote, signed, and mailed that letter. A. I did.

Q. There is a notation in penciled handwriting at the top of this letter of June 10; was that on there when you wrote and mailed it?

A. It wasn't.

Q. That writing, then, is not in your handwriting? A. No.

Mr. Lucas: Of the four sheets that were removed from that exhibit at the request of counsel for the defendant, I offer in evidence, separately, if the court please, and apart from that exhibit, and ask if it is admitted that it take a separate number, a carbon copy of a letter dated May 19, 1938. I say that only for the purpose of identification. I am particularly interested in getting in the exhibit, not so much for the contents of the exhibit, but for the penciled notation that is at the bottom of the typewriting, which says: "Copy to

(Testimony of Harold J. McCoy.)

OT.” It is the government’s contention, and we will offer proof of that by way of expert testimony, if it is denied, that the words “Copy to OT” are in the handwriting of the defendant Danziger, and therefore that a copy of this sheet of paper went to “OT;” and the government will offer proof of the fact that “OT” designated here as receiving a copy, is the defendant Carter, and therefore that the typewritten matter is part and parcel of the scheme to defraud, and shows the connection [260] between the defendant Carter and the defendant Danziger, and we offer it and urge its admissibility on that basis.

Mr. Rose: I know of no rule of evidence, your Honor, that permits a document to be received as evidence because the district attorney has some theory, upon which he wants to utilize, as he points out, the penciled notation which he has endeavored to interpret for us. I submit that instrument is inadmissible. We can’t accept the theories or notions and contentions of the district attorney in lieu of competent evidence; and if he were to have made that remark in the presence of a jury, I would have been entitled to cite him for misconduct for making such statement.

I submit that there is no proper foundation laid for the admissibility of this document, and that it is incompetent, and it is manifestly a communication. I certainly haven’t any objection to your Honor reading it or any proposed document. It is a communication, apparently, by the Wake De-

(Testimony of Harold J. McCoy.)

velopment Company to the local district attorney's office here in Los Angeles, and it, therefore, is a collateral matter which couldn't properly come in here unless we, in turn, would be permitted to bring in the rest of the transactions with the local district attorney's office.

The Court: It will be admitted for the limited purpose as showing communications, subject to being connected up.

The Clerk: 55.

(The document referred to was marked as Government's Exhibit No. 55 and was received in evidence.) [261]

Mr. Rose: Just to be certain, your Honor; heretofore when a matter has been admitted subject to its being connected up, I haven't noted an exception, but it would be a little difficult to retain that from the volume of matter that are coming in here, so if your Honor will permit it I would like to note an exception to the ruling at this time.

The Court: Exception is allowed.

Q. By Mr. Lucas: Mr. McCoy, did either the person you knew as Baker, here identified as Carter, or the person you knew as Dawson, or the Wake Development Company, or Mr. Danziger, or any other of them, ever return any money to you?

A. No, no money.

Q. What is the answer?

A. No money.

Mr. Lucas: You may cross-examine.

(Testimony of Harold J. McCoy.)

Cross-Examination

By Mr. Rose:

Q. As I understand it, Mr. McCoy, this gentleman you have identified here in court, who is known to us in this proceeding as Mr. Carter, approached you in the early part of 1938 under the name of Baker, is that right?

A. Baker, that is the name.

Q. Did he present a card of any character to you? A. No card.

Q. Did you ask him for one? A. No. [262]

Q. May I ask you, Mr. McCoy, what did he tell you is his business, or did you discuss it?

A. He didn't tell me he had any business, only the stock business.

Mr. Rose: Do you mind reading the answer?
(Answer read.)

Q. By Mr. Rose: He told you he was in the stock business?

A. Yes.

Q. That is, he told you that he sells or trades in stock, is that it?

A. No. It seemed like he was the go-between.

Mr. Rose: I move that be stricken as not responsive, your Honor.

The Court: Motion is denied.

Mr. Rose: May an exception be noted?

The Court: Exception allowed.

Q. By Mr. Rose Mr. McCoy, we recognize that you have your own conclusions and opinions about various things, and I am trying to find out what

(Testimony of Harold J. McCoy.)

was said as distinguished from what your conclusion is. Did he tell you what his business was? That is what I am interested in.

A. I don't know whether he really told me what it was, but he said he is down there about the stock transfer.

Q. Did he tell you he wanted to buy stock or sell stock, which was it? [263]

A. Not the first time, he didn't say he wanted to buy it; but afterwards he did.

Q. Let's get one thing at a time.

A. All right.

Q. We are talking now about your first meeting with this gentleman. At that time did he tell you he wanted to sell you some stock, or did he say he wanted to buy some first, the first meeting?

A. He told me he wanted me to trade him my Great Eastern Natural Gas stock.

Q. Did he tell you he had been connected with the Great Eastern? A. No, he didn't.

Q. Did you ask him if he knew anything about the Great Eastern? A. No.

Q. Did he tell you he did? A. No.

Q. There was nothing said about Great Eastern stock?

A. Yes, that is how he got down there.

Q. What did he say?

A. He wanted to know if I had any.

Q. And you told him you did?

A. That's right.

(Testimony of Harold J. McCoy.)

Q. Did you ask him how he happened to call on you?

A. No, I didn't ask him how he got the name at all. [264]

Q. Did you ask him what he was doing 'way down in Cadiz, Ohio? A. No, I didn't.

Q. You didn't discuss that at all? A. No.

Q. Did he tell you he had made the trip for any particular purpose?

A. Didn't even mention a trip.

Q. Did he tell you where he resided?

A. No, he didn't.

Q. Did you discuss it at all? A. I doubt it.

Q. What is your best recollection?

A. Well, he didn't tell me that.

Q. You didn't ask him? A. No.

Q. Did he tell you where he was from?

A. No.

Q. You are sure that is the gentleman over there in the corner? A. I certainly am.

Mr. Rose: For the purpose of the record, I have indicated the person known as Carter in this proceeding.

The Witness: Of course I could bring another witness.

Q. By Mr. Rose: What is that?

A. I could bring another witness. [265]

Q. Well, you mean somebody else was present?

A. That's right.

Q. Mr. McCoy, I am not questioning your identification; I just want to make certain that is the

(Testimony of Harold J. McCoy.)

gentleman, because you have mentioned two gentlemen calling. A. That's right.

Q. I have no argument with you. When you say he is the man, he is the man.

He asked you whether you would be interested in trading your Great Eastern stock for some other stock? A. That's right.

Q. And what did he mention, Wake Development Company, or did he mention—

A. No; he mentioned Trinidad International.

Q. Did he mention the whole name Trinidad International? A. That's right.

Q. Or did he just mention some stock that had the name Trinidad in it?

A. No. Trinidad International.

Q. Had you ever heard of Trinidad International? A. Never heard of it.

Q. Did you ask him where you could ascertain any information about Trinidad?

A. I am afraid I didn't.

Q. You didn't? [266] A. No.

Q. Well, incidentally, back in the year 1935 had you received any communication mentioning the name of "International Gas"—rather, "International Petroleum"? A. No.

Q. Are you sure of that? A. No.

Q. Were you ever shown a prospectus of any kind? A. No.

Q. Did you ever ask to be shown one?

A. No.

Q. Were you ever informed that this Trinidad

(Testimony of Harold J. McCoy.)

Company stock had been acted upon by the Securities and Exchange Commission at any time?

A. No.

Q. Was that ever discussed with you?

A. No.

Q. Before I show you this exhibit, Mr. McCoy, let me ask you this: When did you acquire this Great Eastern Natural Gas Company stock?

A. I really don't know the date. Long before '38, though.

Q. I am not trying to hold you down to the day.

A. I don't know the date I can tell you, no, I don't.

Q. Would you say you did not have it in '35?

A. I couldn't say the correct date. [267]

Q. Mr. McCoy, haven't you any recollection of when you purchased or acquired this Great Eastern Gas Company stock?

A. It was before 1938.

Q. Before 1938 is quite a ways back.

A. He has got the stock, so that would say on there when it was purchased. It was turned in.

Q. You bought it on the market, did you?

A. No; I bought it from the people running the company, I suppose.

Q. Well, did you? A. Yes.

Q. And to your best memory was that in 1935?

A. I don't know.

Q. Prior thereto?

A. I know it was prior to 1938.

Q. Would you say you didn't have it in '35?

A. I couldn't say.

(Testimony of Harold J. McCoy.)

Q. Well, then, you are not able to say whether you did or did not?

A. I had the stock, all right, there is no question about that.

Q. In 1935?

A. I didn't say what date it was. The stock was taken and was never turned back.

Q. Did you ever make any inquiry as to the market value of the Great Eastern Natural Gas Company stock at any [268] time?

A. I can't say that I did.

Q. Well, do you know whether it was functioning in 1938 or not?

A. After I bought it, well, that was about the last I ever heard of it.

Q. You never made any attempt to ever find out whether it was worth anything or not? What is your answer?

A. No.

Q. You just bought it at some time, you don't remember when, you put it away, and that was the end of it?

A. That practically was the end of it.

Q. I have here a form of two-page communication on the stationery of the Great Eastern Natural Gas Company, marked 41, for identification, in this record; I will ask you to look that over and ask you to state whether you recall receiving a facsimile or a similar letter of that type prior to '38.

A. I never remember seeing one of them.

Q. Would you say you did or did not receive one?

A. I would say I didn't.

(Testimony of Harold J. McCoy.)

Q. Are you positive of that?

A. I would say no.

Q. Very well. When this person Baker called on you and discussed this Gas Company stock, didn't you attempt to find out what it was worth?

A. You mean Great Eastern?

Q. Yes.

A. It seems to me that the thing had blowed up in 1938.

Q. You had received some communication to that effect?

A. It seems to me something was said that the company had been dissolved.

Q. You had received a letter to that effect?

A. I can't say what was in the letter now.

Q. You remember receiving some kind of letter?

A. Something that said the company had been dissolved.

Q. I don't expect you to remember the letter, Mr. McCoy.

A. No, I can't.

Q. But what I want to find out, in general, is whether you received a letter of that type indicating that the company had become defunct or something to that effect.

A. I don't think I ever received anything until I wrote in to one of the fellows that was in the company.

Q. Who did you write to?

A. I couldn't tell you now.

Q. But you did have—excuse me, did I interrupt you, Mr. McCoy?

A. No, that is all right.

(Testimony of Harold J. McCoy.)

Q. Well, then, you are not able to say whether you did or did not?

A. I had the stock, all right, there is no question about that.

Q. In 1935?

A. I didn't say what date it was. The stock was taken and was never turned back.

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A. I never remember seeing one of them.

Q. Would you say you did or did not receive one?

A. I would say I didn't.

(Testimony of Harold J. McCoy.)

Q. Are you positive of that?

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A. You mean Great Eastern?

Q. Yes.

A. It seems to me that the thing had blowed up in 1938.

Q. You had received some communication to that effect?

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A. I don't think I ever received anything until I wrote in to one of the fellows that was in the company.

Q. Who did you write to?

A. I couldn't tell you now.

Q. But you did have—excuse me, did I interrupt you, Mr. McCoy?

A. No, that is all right.

(Testimony of Harold J. McCoy.)

Q. Did you have the name and address, by the way, of some person connected with the Great Eastern Natural Gas [270] Company?

A. I did at that time, but I don't have any now.

Q. That is back in '38 you had such thing?

A. Yes.

Q. Do you remember his name? A. No.

Q. Can you give us any inkling, to your best recollection, of what his name was?

A. No, I can't.

Q. When you wrote to him, did you write to him at this address here, 927 Market Street, Wilmington?

A. Wilmington was the address, all right; Wilmington, Delaware.

Q. You wrote to Wilmington in '38 or a little prior to that time? A. Yes.

Q. Without troubling you too much on that particular subject, Mr. McCoy, I would like to find out this: You did write to somebody at the Wilmington office of Great Eastern Natural Gas Company?

A. That's right.

Q. Concerning the stock? A. Yes.

Q. And you received some reply?

A. That's right.

Q. And shortly thereafter this man Baker called on you, [271] is that right?

A. Yes, that's right.

Q. Now, I show you a form that appears to be a letter mimeographed, or something to that effect, it is 42 here in evidence; will you look that over,

(Testimony of Harold J. McCoy.)

Mr. McCoy, and tell us if you can if you recall receiving a letter of that character, so far as you can recall, similar in form to the one you are now reading?

A. No.

Q. You didn't receive that?

A. I didn't receive any.

Q. Would you remember the name of the man that you wrote to in the Great Eastern Natural Gas Company if I mentioned it?

A. I wouldn't.

Q. You wouldn't remember it?

A. No.

Q. Did you discuss the subject of having written to the Great Eastern Gas Company with Mr. Baker?

A. No.

Q. Did he tell you he knew you had written to the company?

A. No.

Q. Did you discuss that with him at all?

A. You mean writing back and forth to the Great Eastern? [272]

Q. Yes.

A. No.

Q. Did you tell him you had communicated with them in any form at all?

A. No.

Q. What is it he told you, again, about the Wake Development Company? What did he tell you about the Wake Development Company?

A. Well, the night he was down there, after he had called me on the phone he come down to the house.

Q. You told us that. I assume if he is talking to you he is at your house.

A. The same thing I told you before.

Q. What did he say about the Wake Development Company?

(Testimony of Harold J. McCoy.)

A. You want to wait till I get to it?

Q. Baker is there in that place in Cadiz, Ohio, wherever it is, and you are both talking; what did he say about Wake Development Company?

A. He said he had a good proposition.

Q. I am asking you what did this man Baker say about Wake Development Company.

A. He said for me to write in to the Wake Company and see if I had permission to exchange the shares.

Q. Did he tell you that there had been some arrangement made previously to work out a deal between the Great Eastern Gas Company and Trinidad Petroleum? [273]

A. He said they were trying to work something out.

Q. He told you that there was such an arrangement, is that correct? A. Yes, sir.

Q. And did he mention to you that by reason of some agreement between Great Eastern Gas and Wake Development Company that there was a deal worked out in connection with the Great Eastern Company, exchanging it for Trinidad stock; is that right? A. Transfer of stock.

Q. And did he tell you that some years back all stockholders of the defunct—of the comparatively defunct Great Eastern Gas Company had received some kind of a right to make such transfer?

A. That's right.

Q. He told you that, didn't he? A. Yes.

Q. And he asked you whether you exercised yours? A. That's right.

(Testimony of Harold J. McCoy.)

Q. - And you told him you hadn't, is that right?

A. That's right.

Q. And then he told you to write in about it?

A. He told me to write to the Wake Company and find out if the offer was still open.

Q. Now, have you told us all that he said about the Wake Development Company in that particular conversation? [274]

A. Just mentioned about transferring the stock; that is, if I hadn't already had my rights and had passed it up.

Q. Well, did he tell you to do anything other than to write in and ask about that particular subject? A. No.

Q. Whether the deal was still open?

A. Not at that time, no.

Q. Did you discuss with him, in connection with your writing to Wake Development Company to find out whether that stock was worth anything or not, the Trinidad stock?

A. No, he was gone when I wrote the letter.

Q. Did you discuss with him to write to Wake to find out whether the Trinidad—

A. No, he told me to write, and that is what I done.

Q. All he told you to write was to see whether you had exercised that privilege that was given years ago to make the exchange plus certain cash consideration? A. That's right.

Q. And that is all he told you to write about, isn't that correct?

(Testimony of Harold J. McCoy.)

A. That is all at that particular time.

Q. Now, have you told us all that was said between you and Mr. Baker about the Wake Development Company at that time?

A. We talked about transferring the stock, if I got my rights. [275]

Q. You told us that. Have you told us all of it?

A. Offered one share of each for one share of Great Eastern Natural Gas.

Q. While we are on that subject, at that first visit did he talk about the Trinidad Company?

A. Maybe he did. He said that—

Q. Did he? Do you actually remember him talking about it? A. Yes.

Q. Tell us what he said about the Trinidad Company.

A. He said they had oil wells in the West Indies.

Q. Did you ask him how many they had?

A. No, I didn't.

Q. You made no inquiry about it? A. No.

Q. Did you ask him how much you would be called upon to pay for Trinidad shares that had oil wells?

A. He just told me what the difference would be in the stocks.

Q. How much did he tell you the Trinidad stock was worth? A. It was worth \$2.

Q. It was worth \$2, he said?

A. That's right.

Q. And that is what he would sell it to you for?

(Testimony of Harold J. McCoy.)

A. No, that wasn't all of it. The profit sharing note [276] up to \$4.

Q. All right. And Baker said that he would buy it from you?

A. He said he had a man to buy it.

Q. Did you ask him where that man was?

A. No, I didn't.

Q. Did you ask him to put it in writing?

A. No.

Q. Did he tell you how much he would pay for it?

A. I think he said—well, he said he would get \$5 for the notes, and the other was just worth \$2.

Q. Which was he going to buy, the notes?

A. He was going to take all of it.

Q. When was he going to take it, did he tell you that?

A. He couldn't take it until I had bought the first 700 shares.

Q. He told you that? A. Yes.

Q. Why—this is a dangerous question—why didn't you write to the Wake Development Company or the International Petroleum and tell them that you had an offer on the part of some person to buy this?

A. Well, I just didn't do it.

Q. Did you have any reason? A. No.

Q. You wanted to keep it secret, is that it? [277]

A. I didn't think anything about it.

Q. Well, did you ask this man Baker how you

(Testimony of Harold J. McCoy.)

were going to make sure that he was going to buy or some other man was going to buy it?

A. I had his word over the telephone.

Q. He told you that over a telephone, is that it?

A. After the first 700 shares was bought.

Q. That is the first time that Baker told you that he had a man who would buy it?

A. He told me before, after he bought the first 700 shares.

Q. You just told us that he told you that on the telephone. Did he?

A. Yes, I think that was all over the telephone.

Q. Did you ask him where you could reach him?

A. Where I could reach him?

Q. Yes. A. No, I didn't.

Q. Did he tell you where you could reach him?

A. No.

Q. He at no time told you that the Wake Development Company would buy this stock, did he?

A. No.

Q. Did he tell you that the stock that he proposed that you purchase was stock owned by the Wake Development Company? [278]

A. No. In fact, I didn't know who owned it.

Q. You didn't know? A. No.

Q. And you didn't ask him? A. No.

Q. In relation to the time this man Baker called on you, how long an interval elapsed before this man named Dawson called on you?

A. I had a couple of letters from the Wake Company between that, one or two.

(Testimony of Harold J. McCoy.)

Q. I understand that; but I am asking you how long after did Mr. Dawson call.

A. Well, it wasn't very long; two or three days, maybe.

Q. Two or three days after the first visit by Baker Dawson called on you?

A. That's right.

Q. Did Baker accompany that man?

A. He didn't.

Q. Can you give us a description of this gentleman you say was Mr. Dawson?

A. All I can say was he was tall and slim. About as tall as this man, only he wasn't near so heavy.

Q. In any event, Mr. McCoy, you are certain and positive in your own mind that Mr. Dawson was not this gentleman sitting over there?

A. I know he wasn't. [279]

Q. I mean you are positive about that?

A. Absolutely.

Q. They both came together, is that it?

A. No.

Q. Dawson came by himself?

A. They never came together.

Q. We have got Dawson with you now, Mr. McCoy, he is right there in your home town talking to you; what did he say?

A. He said they had a man in California that was arranging for exchange of these shares, and he had to have some money.

Q. Wait a minute so I will be sure we clear it

(Testimony of Harold J. McCoy.)

up as fast as we can. Did you ask him who that man was?

A. He said his name was Winslow.

Q. He said he had a man named Winslow in Los Angeles?

A. That's right. And he was the go-between to——

Q. Wait a second. A. All right.

Q. Mr. McCoy, I just want to get that cleared up. A. All right.

Q. Do you recall the initial of the man named Winslow? A. I think it was "A. R."

Q. A. R. Winslow? A. Yes.

Q. Did he tell you where you could get in touch with [280] Winslow? A. No, he didn't.

Q. You didn't ask him about that?

A. No.

Q. He told you this man Winslow was the man making the trade?

A. That is what he told me, that he was trying to fix up the transfer.

Q. Let's get that clear. Dawson is the man that is telling you this man Winslow in Los Angeles is the one that is making some kind of a deal?

A. That's right.

Q. Now, when Baker returned—he did return after you talked to Dawson? A. Oh, no, no.

Q. He talked to you over the phone, I believe you said. A. That's right, over the phone.

Q. Did you tell Baker that a man named Dawson had talked to you about a man named Winslow?

(Testimony of Harold J. McCoy.)

A. That's right.

Q. What did he say about it?

A. He said it was all right.

Q. He said it was all right? A. Yes.

Q. What did Baker tell you about Winslow?

A. He didn't give me any particulars about it.

Q. But he said he was all right?

A. That's fine.

Q. That is all he told you about him?

A. That's right.

Mr. Rose: Will your Honor bear with me a moment? I may be finished here.

Q. By Mr. Rose: I am showing you, Mr. McCoy, just by way of an exemplar, a form of preferential profit sharing note of the Trinidad International Petroleum; this is the type of note that you received through the mail, is that correct?

A. That's right.

Q. Do you still have it?

A. I have them in my pocket.

Q. Do you have it with you?

A. That's right.

Q. That is the type exemplified by Exhibit No. 26. And the shares of stock that you received are similar to No. 37? If you have them with you, it might save some time so we can clear up the record, instead of trying to get you to compare them.

(Witness hands counsel some papers.)

Mr. Rose: With your Honor's permission, just for the purpose of the record, may the record reflect that the witness, Mr. McCoy, has removed from

(Testimony of Harold J. McCoy.)

his pocket, from an [282] envelope, two documents, one is Trinidad International Petroleum stock certificate No. B-186 for 700 shares, and a preferential profit sharing note of the Trinidad International Petroleum Limited No. C-106 for 700 units.

Does your Honor want to look at them?

The Court: Yes.

Mr. Lucas: Will you read the date of their issuance into the record?

Mr. Rose: Yes. I think they ought to be returned to the witness. You haven't any objection, have you?

Mr. Lucas: No, I haven't any objection.

Mr. Rose: The date of the certificate No. C-106, that is the preferential profit sharing note, is the 19th of April, 1938, and the stock certificate No. B-186 for 700 shares is dated the 20th of April, 1938.

Q. By Mr. Rose: Are these all the certificates you have ever received?

A. That's right, that is all.

Mr. Rose: I am returning the two certificates, your Honor, referred to, to the witness. That will be all.

Mr. Lucas: Just a couple of questions on redirect.

Redirect Examination

By Mr. Lucas:

Q. You said, in answer to a question by Mr. Rose, that the exchange was one share of Great Eastern for one share of Trinidad. Is that the

(Testimony of Harold J. McCoy.)

understanding that you had [283] with Baker, or was there a money payment in addition to that?

A. I got one of Trinidad and one profit sharing for my Eastern Gas stock and \$3 to boot.

Q. I see. One share of Great Eastern Natural Gas and \$3 in cash got you one share of Trinidad International Petroleum and one profit sharing note?

A. That's right.

Q. Counsel asked you on cross examination when if ever you learned that the Great Eastern was defunct, or some word of similar meaning. I want to ask you did either Carter—that is, the man named to you as Baker—or Dawson say anything to you about whether the Great Eastern Natural Gas was defunct or not?

A. I think not.

Q. You have no recollection they said that?

A. No, I have no recollection of that.

Q. Did either of them say that they were taking in your stock at the price of \$2, the Great Eastern stock?

A. No, I guess not.

Q. In other words, you have now no recollection that in the exchange or in the talk between you and Baker, and between you and Dawson, that a fixed money price was placed on your Great Eastern Natural Gas?

A. No; it was on the other stock. \$2 and up to \$4 on the other.

Q. \$2 on this Trinidad stock? [284]

A. Yes.

Q. \$4 on the profit sharing note?

A. That's right.

(Testimony of Harold J. McCoy.)

Q. What I am getting at specifically now is do you have any recollection that either Dawson or Baker stated a value for Great Eastern Natural Gas?

A. No recollection of it.

The Court: Your Great Eastern stock was valueless?

The Witness: \$2. Yes, it was valueless, but that is what it cost, I mean.

The Court: You paid \$2 for it?

The Witness: I paid \$2 for it.

The Court: How were you getting this fine deal if you were just turning in something that was valueless?

The Witness: I don't know. I didn't have sense enough to look that far, I guess.

Mr. Lucas: No further questions.

The Witness: Are you through?

Mr. Rose: That is all, Mr. McCoy, on my part.

Mr. Lucas: May we have the usual afternoon recess at this time, your Honor?

The Court: No; it is too early.

Mr. Lucas: Then at this time I desire to offer the testimony of Jacob Danziger produced and taken by the Securities and Exchange Commission in the course of three or four hearings, and I have before me the transcript, [285] certified record of the transcript of that proceeding. I have, before the trial of this case started, provided Mr. Rose with a duplicate of it, and this will have to be read into the record, because it is not an exhibit—

The Court: No, you are not going to read it into the record. You can put it in as a document here, and I will read it when I get time.

Mr. Rose: Let me see it.

Mr. Lucas: You have the copy.

Mr. Rose: Let me see the one you are talking about.

Mr. Lucas: I want to make the offer to read it, your Honor, and I am perfectly willing to have your Honor read it.

The Court: That is the way I am going to do it.

Mr. Lucas: I would like to have either an order from your Honor or a stipulation of counsel that it may be copied in the record by the reporter, with the same effect as though it were read into the evidence, if either counsel for the government or the defendant desires it. I will be satisfied to have that as an order of the court or as a stipulation.

Mr. Rose: I would like to be heard on this offer.

In the first place, this instrument here is not a certified instrument in the form to give it any validity. And, secondly, the mere fact that an inquiry was directed to Mr. Danziger by some representative of the Securities and Exchange Commission doesn't add competency and make all of that extra-judicial business, without any proper rulings, [286] competent or admissible evidence. It is incumbent upon the prosecution here, before they even resort to declarations of some party to the proceeding, to establish the corpus delicti of one or more of the offenses herein alleged to have been committed.

Now, we have heard a lot of testimony here about Mr. Carter who is not on trial, and Mr. Baker, and so forth. There is no testimony that has been proffered up to this moment which shows the commission of any offense by the defendants on trial. Now, regardless of the duplicity and action and acts and declarations of the person Carter and some others, there is nothing in this record, not a scintilla of evidence, that any criminal act of any character or description has been committed on the part of the defendants who now are on trial.

I submit that I have never heard of an offer of this type, an omnibus offer. This so-called unsworn to record, so-called, here, of conversations or queries had extra-judicially without authority or sanction of court, by somebody from the Securities and Exchange Commission with Mr. Danziger, doesn't omnibusly make it admissible for any purpose.

If your Honor is to consider this offer at this time, I certainly would insist that he start reading it so I can interpose objections. For example, a deposition, even, of a witness, is not officially admissible in evidence until [287] has been corrected and subject to rulings of the court as to whether the questions were proper, pertinent, and so forth.

I am not prepared to tell your Honor at this time what is in here. I have had my hands full trying to keep up with the bunch of exhibits that were dumped in my lap the morning of the trial.

The Court: Put on another witness, Mr. Lucas. Lay that aside for the while.

Mr. Lucas: Yes, your Honor. Call Mr. Conway.

Before I call Mr. Conway, I think, for the orderly manner in which I have outlined the presentation of this case, your Honor, I will put in some files.

I show counsel a file supplied to the Securities and Exchange Commission by Wake Development Company and Mr. Danziger, and offer it in evidence at this time in support of Counts 2, 9, and 14, your Honor, the Florence Lawyer counts.

Mr. Rose: I am runnig into some strange proceedings here. You are offering this unidentified file as evidence in support of a count charged in this indictment?

Mr. Lucas: I don't quite agree with your terminology "unidentified." I tried to make it clear, Mr. Rose, that the documents which I handed you were given to us by Mr. Danziger, and many of them were testified to by him in the sworn testimony which I offered to read, and which I regret the court declined to let me do, because in the sworn testimony, if the court please——

The Court: I don't want to take the time now to read that. You can put somebody on here that can testify he got that from Mr. Danziger. Do you have the man here?

Mr. Lucas: Yes. I don't think Mr. Rose disputes it.

The Court: I don't know whether he does or not. Prove where you got it.

Mr. Lucas: Call Mr. Mainland. [289]

ALLEN G. MAINLAND,

called as a witness by and on behalf of the government, having been first duly sworn, was examined and testified as follows:

The Clerk: State your name, please.

The Witness: Allen G. Mainland.

Direct Examination

By Mr. Lucas:

Q. What is your business or occupation, Mr. Mainland?

A. I am an accountant investigator for the Securities and Exchange Commission.

Q. How long have you been such?

A. Since June, 1938.

Q. And in the course of your official duties did you meet, talk to, and take testimony of Jacob Morris Danziger, the defendant in this case?

Mr. Rose: Just a minute. I object to the form of the question as leading and suggestive, calling for a conclusion and opinion of the witness.

The Court: You may answer.

Mr. Rose: May I have an exception noted?

The Court: Exception is allowed. [290]

The Witness: I did.

Q. By Mr. Lucas: I show you, Mr. Mainland, a series of letters and correspondence clipped together, the top document of which I refer to contains the words 30 Odell Avenue, Yonkers, New York, March 2, 1939; did you receive that entire file from the defendant Jacob Morris Danziger in

(Testimony of Allen G. Mainland.)

the course of taking his testimony and making your investigation?

Mr. Rose: I object to the form of the question as compound, calling for a conclusion and opinion of the witness.

The Court: You may answer.

The Witness: I received this entire file from Mr. Danziger personally.

Mr. Lucas: I now offer this entire file in evidence, if the court please, as government's exhibit next in order.

Mr. Rose: First, I ask leave to take the witness on voir dire.

The Court: Go ahead.

Q. By Mr. Rose: So far as your own knowledge goes, Mr. Mainland, do you know, of your knowledge, who dictated or wrote those particular documents? A. I do not.

Q. I take it from the preliminary questions that have been asked you, you saw Mr. Danziger at his office and asked him for whatever files he had in connection with Wake Development Company, is that it? [291]

A. No, that isn't it.

Q. Did you ask him for particular files, or did you ask for all the files, which is it?

A. I first went to——

Q. No, Mr. Mainland; I am not going to open the door here on your so-called investigation. I am talking about files. Did you ask for any particular

(Testimony of Allen G. Mainland.)

files, or did you ask for the files of the Wake Development Company?

A. I asked for the files.

Q. Of the Wake Development Company?

A. Yes.

Q. The files of the Trinidad Company?

A. But I should say——

Q. Did you?

A. I should say that Mr. Danziger told me that the Wake Development Company had no separate files.

Q. I didn't ask you that, Mr. Mainland. Did you ask for the Wake Development files?

A. Yes, I did.

Q. You asked for the Trinidad Company files?

A. Yes, I did.

Q. And I take it in response to that request you were handed, without inspection, a great mass of documents?

A. No, I was not.

Q. Did he turn them over to you?

A. He told me that he would get some out and let me [292] have them on a future occasion.

Q. He got them out and turned them over to you?

A. No; he turned some papers over to me and some files to me.

Mr. Rose: Your Honor, I am objecting to the offer of this exhibit upon the following grounds severally: One, that there is no proper foundation laid. And to clarify that and supplement that phase of the objection about the foundation, there

(Testimony of Allen G. Mainland.)

is no foundation laid as to the author, circumstances, and identity of these documents. The objection is further had to the attempt to try an offense by purported correspondence procured in this omnibus form, since it violates the due process of law and equal protections of the law, and our fundamental civil rights to be confronted by the witnesses who appear against us. I submit, your Honor, that it is incompetent to receive evidence in this form with this form of foundation, namely, that an accountant, an investigator, from the Securities and Exchange Commission, comes up and asks for papers, and therefore those papers, without anything other, are offered in evidence to charge us with the commission of an offense. In application of my objection, I submit that the government should be required to go ahead and establish the corpus delicti of this offense. The acts and declarations of Mr. Baker or what have you there, orally made in Ohio or in some towns in New Jersey do not establish the commission of an offense [293] against the United States, or the laws of the United States, and they certainly have not been shown to be binding upon us; and to merely come along on this form of expedition and say here, "We are going to offer any papers that came into possession of the Securities and Exchange Commission," without any foundation, regardless of whether they are copies or originals, at an interview privately had between an accountant and some officer of one of the companies, I submit that such evidence is high-

(Testimony of Allen G. Mainland.)

ly prejudicial and it is not cognizant in law, and I object to it.

The Court: Are you going to back this up with oral testimony?

Mr. Lucas: Your Honor, I have not in the course of this trial consumed much time of the court in useless argument. The law provides for the taking of this testimony by Mr. Mainland. I refer the court and counsel to Section——

The Court: I know all about that. Are you going to put a witness on the stand who says, later, he met this woman and did so and so with it?

Mr. Lucas: I was going to, and that is why the ruling of the court took me by surprise——

The Court: I have been letting you do things your way. Now I am going to put the case in my way; I am going to get some speed, and I am starting out now. I am going to do it differently. Are you going to put Carter on to say that he met that woman? [294]

Mr. Lucas: Yes.

The Court: All right. That is admitted.

Mr. Rose: May we have an exception?

The Court: Yes, exception is allowed. Anything further from Mr. Mainland?

Mr. Lucas: May I have the next file, Mr. Mainland?

The Clerk: Which is admitted here?

Mr. Lucas: The entire file.

The Court: That is admitted as an exhibit.

The Clerk: Exhibit 56.

(Testimony of Allen G. Mainland.)

(The document referred to was marked as Government's Exhibit No. 56, and was received in evidence.)

The Court: Now, what count are you referring to?

Mr. Lucas: Count 4. I show you, counsel, a file heretofore given to Mr. Mainland by Mr. Danziger. I think you have photostats of it, counsel.

The Court: They can be examined later. Have Mr. Mainland identify them the way you had this other file.

Q. By Mr. Lucas: Did you receive this file, which you have given me, from Mr. Danziger and the Wake Development Company in the course of the investigation and the taking of testimony, as you did in the other file, the Lawyer file?

A. I did; and this was handed to me by Mr. Danziger.

Mr. Lucas: I offer this in evidence as the government's exhibit next in order.

The Court: Will that be backed up by oral testimony of [295] Mr. Carter?

Mr. Lucas: That will be supported by testimony of the witness Carter.

Mr. Rose: I object to it on the following grounds, severally: That no proper foundation is laid; the same is incompetent, immaterial, and its reception is contrary to the laws and constitutional guarantees in that we are deprived of the privilege of cross examination of the person to whom that purported file relates, and submit that the offer to

(Testimony of Allen G. Mainland.)

support this by the self-serving declarations of the person whose acts were hearsay as to us, namely, the man that is not on trial, Carter, is highly prejudicial. Upon those grounds I submit the objection.

The Court: Admitted.

The Clerk: 57.

Mr. Rose: May an exception be noted?

The Court: Exception is allowed.

(The document referred to was marked as Government's Exhibit No. 57, and was received in evidence.)

Q. By Mr. Lucas: Mr. Witness, I show you a file which I refer to as the Pitts file; the top paper, for identification, is dated February 20, 1939, Mr. Harry F. Pitts, 290 Wall Street, Kingston, New York, and I will ask you to tell the court how and when you received that file.

A. I received this file from Mr. Danziger. I do not recall the exact date. It was during the spring of 1941. [296]

Q. And in the course of an investigation made by you for the Securities and Exchange Commission?

A. Yes.

Mr. Lucas: I offer this in evidence, if the court please, as government's exhibit next in order. Council, you have not a photostatic copy of this file.

The Court: State your objections, Mr. Rose.

Mr. Rose: May I take a look at it, your Honor?

The Court: You can examine it later, and then you can add to your objection after you examined it if you want to.

(Testimony of Allen G. Mainland.)

Mr. Rose: I object to this offer, your Honor, on the ground that no proper foundation has been laid, that the documents are in the main carbon copies bearing no signatures, that the reception or proposed reception of these exhibits deprives us of our right to cross examine the persons and parties to this document or documents, the same is hearsay and incompetent.

The Court: Will this be backed up by oral testimony?

Mr. Lucas: Yes, we have here the witness who contacted the person named in the indictment and in that correspondence.

The Court: Admitted.

Mr. Rose: May an exception be noted?

The Court: Exception allowed.

The Clerk: 58.

(The document referred to was marked as Government's Exhibit No. 58, and was received in evidence.) [297]

Q. By Mr. Lucas: I show you, Mr. Mainland, a correspondence file relating to a man by the name of E. Barrie Smith, and ask you if you received that file from Mr. Danziger and the Wake Development Company in the course of an investigation made by you for the Securities and Exchange Commission.

A. I received this file from Mr. Danziger during the course of the investigation.

Mr. Lucas: We offer this in evidence as the government's exhibit next in order.

(Testimony of Allen G. Mainland.)

The Court: State your objections, Mr. Rose.

Mr. Rose: Objection is had to this document upon the ground that no proper foundation has been laid, that the documents on their face are in the main carbon copies bearing no signatures, that there are no facts pertaining to the transaction in question; the same violates the equal protection of rights and due process of law our our right to be confronted by witnesses in connection with any evidence addressed to any of the charges contained in this indictment.

The Court: Admitted.

Mr. Rose: May an exception be noted?

The Court: Exception allowed.

The Clerk: 59.

(The document referred to was marked as Government's Exhibit No. 59, and was received in evidence.)

The Court: Go ahead.

Mr. Lucas: He has to check to get a number to pull out [298] the proper file, your Honor. I wonder if I would be out of order——

The Court: Have you several more like this?

Mr. Lucas: I think we have only two more.

The Court: Let's put those in. We will take 10 minutes. You get them together. We are going to 5:00 o'clock tonight, gentlemen.

(Short recess.)

Q. By Mr. Lucas: Mr. Mainland, I show you a file, the first letter of which is signed by Harry Tether, and ask you if you received this file from

(Testimony of Allen G. Mainland.)

the defendant Danziger and Wake Development Company in the course of the investigation you made as a representative of the Securities and Exchange Commission.

A. I did exactly that; and this file was handed to me by Mr. Danziger.

Mr. Lucas: I offer this in evidence as the government's exhibit next in order.

Mr. Rose: Objection is had to this group of documents on the ground that no proper foundation has been laid, that the documents are unidentified carbon copies, and there is no foundation or circumstances pertaining to the transaction; the offer is an attempt to charge us with evidence in the form of communications, depriving us of the right of confrontation by witnesses, and an attempt to establish the corpus delicti of a reputed offense by surmise and conjecture. [299]

The Court: The documents are admitted.

Mr. Rose: May an exception be noted?

The Court: Exception allowed.

The Clerk: No. 60.

(The document referred to was marked as Government's Exhibit No. 60, and was received in evidence.)

Q. By Mr. Lucas: I show you, Mr. Mainland, a set of correspondence, the first letter of which is on the letterhead of Michael A. Burns, and ask you if you received that correspondence from the defendant Danziger and the Wake Development

(Testimony of Allen G. Mainland.)

Company in the course of your investigation for the Securities and Exchange Commission.

A. I received this entire file from Mr. Danziger in the course of the investigation.

Mr. Lucas: I now offer this in evidence as the government's exhibit next in order.

Mr. Rose: I object to this group of documents on the ground that no proper foundation has been laid, the same is incompetent; that the document is ostensibly offered in lieu of giving us an opportunity to be confronted by the witnesses or witness involved in this series of correspondence; it violates the due process of fundamental law in that it is an endeavor by surmise and conjecture and innuendo to uphold the corpus delicti of the offense or offenses charged in this indictment, and as such they are incompetent.

The Court: The documents are admitted.

Mr. Rose: May an exception be noted? [300]

The Court: Exception allowed.

The Clerk: 61.

(The document referred to was marked as Government's Exhibit No. 61, and was received in evidence.)

Q. By Mr. Lucas: I show you, Mr. Mainland, a series of what I would refer to as stock certificate stubs, and ask you if you received them from the defendant Danziger in the course of your investigation made for the Securities and Exchange Commission.

A. I received them from Mr. Danziger.

Mr. Lucas: I show them to counsel.

I now offer them in evidence as the government's exhibit next in order.

The Court: Admitted.

The Clerk: 62.

(The document referred to was marked as Government's Exhibit No. 62, and was received in evidence.)

Q. By Mr. Lucas: I show you, Mr. Mainland, a bound—I guess we can speak of it as a “bound”—document, on the outside of the cover of which there is the written title, “Trinidad International Petroleum Limited,” below that the words, “Stock and Note Ledger,” on the inside of the brown cover a further cover in blue headed at the top thereof, “T. I. P.,” below that the words, “Stock Ledger and Note,” and ask if you received that from the defendant Danziger in the course of your investigation for the Securities and [301] Exchange Commission. A. I did.

Mr. Lucas: I offer this in evidence as the government's exhibit next in order.

The Court: Admitted.

The Clerk: 63.

(The document referred to was marked as Government's Exhibit No. 63, and was received in evidence.)

Q. By Mr. Lucas: I show you, Mr. Mainland, another bound book or document——

Mr. Rose: It will probably save time, because if I look at it and there is going to be no——

Q. By Mr. Lucas: —denominated “Stock

(Testimony of Allen G. Mainland.)

Journal," and ask you if you received that from Mr. Danziger in the course of your investigation.

A. I did.

The Court: Do you offer it?

Mr. Lucas: I offer it.

The Court: Admitted.

The Clerk: 64.

(The document referred to was marked as Government's Exhibit No. 64, and was received in evidence.)

Q. By Mr. Lucas: I show you, Mr. Mainland, another bound volume; on the outside thereof is the notation, "Note Journal," at the top, "Trinidad International Petroleum," and ask you if you received this from Mr. Danziger in the [302] course of your investigation for the Securities and Exchange Commission.

A. I did.

Mr. Lucas: I now offer it in evidence as the government's exhibit next in order.

The Court: Admitted.

The Clerk: 65.

(The document referred to was marked as Government's Exhibit No. 65, and was received in evidence.)

Q. By Mr. Lucas: I show you, Mr. Mainland, one sheet of paper, one stock certificate of Trinidad International Petroleum, Limited, stock certificate No. 271 for 20,000 shares of stock, which sheet of paper and stock certificate are stapled to a cardboard back, and ask you if you received these from

(Testimony of Allen G. Mainland.)

Mr. Danziger in the course of your investigations for the Securities and Exchange Commission.

I received them. Those papers were in the stock ledger when Danziger turned it over to me in January, 1941.

Q. By the stock ledger you mean some exhibit that we have already introduced in evidence?

A. Yes. That is Exhibit 5 in the investigation series of numbers.

Mr. Lucas: Let's get it by court exhibit numbers.

Q. By Mr. Lucas: Stock Note and Ledger was Exhibit 63. Is that what you mean? A. Yes.

Q. And the document which you have referred to was inside of that?

A. Yes.

Q. Did you speak to Mr. Danziger about it, or have any discussion with him about it at all?

A. At this moment I don't recall asking Mr. Danziger about it.

Mr. Lucas: I offer the exhibit in evidence as government's exhibit next in order.

Mr. Rose: May I see it?

(The document was handed to counsel.)

The Court: Admitted.

The Clerk: No. 66.

(The document referred to was marked as Government's Exhibit No. 66, and was received in evidence.)

Q. By Mr. Lucas: I show you, Mr. Mainland, a typed sheet of paper dated October 7, 1939 bearing

(Testimony of Allen G. Mainland.)

a stamp of the Securities and Exchange Commission, a blank sheet of paper with a series of figures on a piece of tape; it looks as though it might have come from an adding machine; a series of figures and at the top of the column there being, "Notes out," and also in the same group a certificate No. B 201 of preferential profit sharing notes of Trinidad International Petroleum, Limited, representing under the legend "Number of Units" the figures 100,000, and all of those are stapled to a cardboard, and ask you if you received these documents from [304] Mr. Danziger in connection with your investigation for the Securities and Exchange Commission.

A. I did; and my recollection is that those papers were also inside the cover of a note and stock ledger, Exhibit 63.

Mr. Lucas: I offer it in evidence as the government's exhibit next in order.

The Court: Admitted.

The Clerk: 67.

(The document referred to was marked as Government's Exhibit No. 67, and was received in evidence.)

Q. By Mr. Lucas: I show you, Mr. Mainland, a letter on the stationery of the Industrial Laundry Machine Company addressed to Wake Development Company, a carbon copy of a letter dated November 22, 1937 addressed to Mr. Lehman Kuhl, Box 102 Station A, Flushing, New York, a handwritten letter addressed to Trinidad International Petroleum, Limited, 14th Floor Continental Building, signed by

(Testimony of Allen G. Mainland.)

Lehman Kuhl, and those documents are affixed to a blank sheet of paper that carries the legend "Exhibit 69, Item 18," and ask you if you received these documents from Mr. Danziger in the course of your investigation for the Securities and Exchange Commission.

A. I did. I take that name to be Lehmkuhl, one word, however.

Q. But the documents you received from him?

A. Yes.

Mr. Lucas: I offer this in evidence as the government's exhibit next in order. [305]

Mr. Rose: Are you offering this for any particular count?

Mr. Lucas: No. Showing the scheme and device.

Mr. Rose: Let the record reflect, your Honor, that opposing counsel is offering this, as he announces, as evidence of scheme and device. The documents that have been handed me appear to bear a date in 1935, some in 1937; they do not pertain or relate to any count or transaction set forth in the indictment herein. I submit that the same is incompetent for the purposes for which it is offered, no proper foundation is laid, and that the same is immaterial.

The Court: Admitted.

Mr. Rose: May an exception be noted?

The Court: Exception allowed.

The Clerk: 68.

(The document referred to was marked as Government's Exhibit No. 68, and was received in evidence.)

(Testimony of Allen G. Mainland.)

Q. By Mr. Lucas: I show you, Mr. Mainland, some original and duplicate correspondence attached to a cardboard device by stapling; the first page thereof is on the stationery of Jesse C. Stewart Company, the date is December 16, 1937, and ask you if you received this correspondence from the defendant Danziger in the course of your investigation for the Securities and Exchange Commission.

A. I did.

Mr. Lucas: I offer this in evidence as the government's exhibit next in order.

Mr. Rose: Is this addressed to any count?

Mr. Lucas: I offer it, if the court please, an allegation of the formation of scheme and device alleged in each count in the indictment, and in proof of the conspiracy, and in further support to show the connection between the defendant Danziger and his co-defendant Carter.

Mr. Rose: To which offer we object on the following grounds severally: The same is incompetent for such purposes in that the said papers on their face do not purport to be evidentiary matter of any so-called scheme or device or a conspiracy; that there is no proper foundation laid. And I respectfully submit that a document when offered in evidence can only be offered for the purpose reflected in the document. You can not offer a document that says, "I owe you \$10," and say that it doesn't mean anything of the kind. That this is an attempt to resort to speculation, conjecture and innuendo, and in the absence of an opportunity to be confronted by the

(Testimony of Allen G. Mainland.)

witnesses or persons between whom the transaction reflected in these documents pertains. The same is remote in time to any item charged in the indictment. It should be indicated, your Honor, that in the last series of some 10 exhibits that have been offered, which consists of a volume of documents, that I have not had an opportunity to inspect these documents, to become familiar with their contents. Your Honor has undoubtedly, in the interests of expediting the proceedings, decided to receive them and [307] afford me an opportunity to inspect them when court is not in session——

The Court: That's right.

Mr. Rose: ——but I want to call your Honor's attention, in amplification of my objection, to a letter dated January 6, 1938, and this letter declares, "We decided there is no valid reason why we should renew our offer to exchange your Great Eastern Natural Gas for Trinidad at this late date. It was explained to you in our letter of December 20 this offer was made over two years ago, and we do not feel obligated to make the exchange at this time." I submit, your Honor, in view of a declaration of that character, which certainly is favorable to any of the parties herein involved—I want to indicate to your Honor there is no way of my knowing what the antecedent transactions were in connection with the transmittal of this letter.

The Court: The documents are admitted.

The Clerk: 69.

Mr. Rose: May an exception be noted?

(Testimony of Allen G. Mainland.)

The Court: Exception.

(The documents referred to were marked as Government's Exhibit No. 69, and were received in evidence.)

Q. By Mr. Lucas: I show you, Mr. Mainland, a sheath of correspondence stapled together, the top sheet of which has the letterhead Raymond F. Walpert, 224 South 15th Street, Sebring, Ohio, dated March 20, 1938, and ask you if you [308] received this file in its entirety as it is from Mr. Danziger in the course of your investigation for the Securities and Exchange Commission. A. I did.

Mr. Lucas: We offer this in evidence, if the court please, as government's exhibit next in order, and say to the court and counsel that this is one of the persons named in the indictment as being defrauded.

The Court: That is rather long. Let him look it over during the evening. Have you something else to put in?

Mr. Lucas: Yes.

The Court: Give it a number for identification, clerk.

The Clerk: No. 70, for identification.

(The documents referred to were marked as Government's Exhibit No. 70, for identification.)

Q. By Mr. Lucas: I show you, Mr. Mainland, a stapled series of letters, correspondence, the top sheet of which, for purposes of identification, bears a

(Testimony of Allen G. Mainland.)

legend, "304 Concord Avenue, Wilmington, Delaware, October 15, 1935," signed C. E. Mills, and ask you if you received this from the defendant Danziger in the course of your investigation for the Securities and Exchange Commission. A. I did.

The Court: What does that bear on?

Mr. Lucas: Pardon me. Let me check with Mr. Mainland. It bears, if the court please, on the connection between the [309] defendant Danziger and the defendant Carter. And I might say this and one previous exhibit also bear on counts 8, 9, 10 and 11, being the registration counts of the indictment. This and the other exhibit would also tend to prove that a public offering of the securities was made in violation of the law as set forth in counts 8, 9, 10 and 11.

The Court: Let it be marked for identification.

The Clerk: No. 71, for identification.

(The documents referred to were marked as Government's Exhibit No. 71, for identification.)

Q. By Mr. Lucas: I show you, Mr. Mainland, a series of correspondence, the top sheet of which, for the purpose of identification, shows it is on the letterhead of law offices Herring, Morris & James; the date of the top sheet is October, 1937; and I will ask you if you received this correspondence from Mr. Danziger in the course of your investigation for the Securities and Exchange Commission. A. I did.

The Court: What does it bear on?

(Testimony of Allen G. Mainland.)

Mr. Lucas: This is government's exhibit next in order.

The Court: What does it bear on?

Mr. Lucas: It bears on the relationship between the defendant Danziger and the defendant Carter. If my recollection serves me right, it is one of the persons alleged to be defrauded; is that right?

The Witness: No. [310]

Mr. Lucas: I am not right in that. And it contains the handwriting that would incite that it was called to the attention of the defendant Carter, if the court please, to show the connection between the two conspiring defendants and the formation of the plan, scheme and device.

The Court: Mark it.

The Clerk: 72, for identification.

(The documents referred to were marked as Government's Exhibit No. 72, for identification.)

Mr. Lucas: Do I understand this is being marked for identification, your Honor?

The Court: Yes.

Q. By Mr. Lucas: I show you, Mr. Mainland, a large manila envelope in which there is contained numerous stock certificates and profit sharing notes of the Trinidad International Petroleum Company, some of which appear to have been canceled, and I will ask you if you received these from the defendant Danziger in the course of your investigation for the Securities and Exchange Commission.

(Testimony of Allen G. Mainland.)

A. Yes, I did.

Mr. Lucas: As I understand, counsel, all of those documents are certificates of profit sharing notes and stock certificates showing on their face to be canceled.

Mr. Rose: You offer them for what purpose?

Mr. Lucas: As part of the records and documents of the Trinidad International Petroleum. Without examining each [311] of those certificates, if the court please, their significance is this: that they are canceled certificates; they have an intimate connection between the stocks that were received by these various count persons or victims, and show the manner in which the transactions were handled. That is particularly true, I think, with regard to the Parsons transaction and the Hazelton transaction. So they show a direct contact in many instances between the defendant Danziger and the defendant Carter with many of the persons named in the indictment, and perhaps each and all of them. I do not make that statement unqualifiedly, however, but I think that a careful examination will show that perhaps every or many, at least, persons named in the indictment as having been defrauded will have canceled certificates in there. At any rate, it further shows how the Trinidad International Petroleum carried on its stock business.

Mr. Rose: Your Honor, I recognize——

Mr. Lucas: In testimony—may I just finish?

Mr. Rose: Tell me when you are finished.

Mr. Lucas: Yes, I will be very happy to. The

(Testimony of Allen G. Mainland.)

witness Mainland will testify later on, in detail, with respect to them.

Mr. Rose: Your Honor, I just want to show you how fanciful some of these statements are that opposing counsel makes. I have gone through these stock certificates. At least I can say at this moment that there is only one of this [312] group of certificates that pertains or relates to any transaction with any of the persons mentioned in this indictment. All the others, including the original transfer and issue from the Standard Mining Corporation by Thomas D. Hill, one of the owners of the British holding and leases, isn't involved here; and just to throw these in, your Honor, without any foundation, just because they happened, as I indicated earlier in the afternoon, to have been turned over to the witness at his request, doesn't give them competency. Your Honor, if you are going to receive this group I will have to take time to object to each and every one of these certificates and state my ground.

The Court: You have that right.

Mr. Lucas: May I interject at this time, Mr. Rose? If what Mr. Rose says is true——

Mr. Rose: Here is the original issue that was O. K.'d by the Securities and Exchange Commission.

Mr. Lucas: On the basis of what counsel stated about them showing as being canceled and transferred from the Standard Mining Company, I further submit they are very competent, in view of the testimony of Mr. Danziger, and they go to the very heart of the conspiracy here, your Honor.

(Testimony of Allen G. Mainland.)

Mr. Rose: Is your Honor at this time disposed to receive this omnibus offer, or just have it marked for identification?

The Court: They may be marked. [313]

The Clerk: 73, for identification.

(The documents referred to were marked as Government's Exhibit No. 73, for identification.)

Mr. Lucas: Many of these things, I may say to the court in passing—their relevancy would have been manifest in a moment if I had gotten in the testimony of Mr. Danziger before the Commission.

Q. By Mr. Lucas: I show you, Mr. Mainland, a series of sheets of paper containing both names and figures inside of a cover marked on the outside, "T. I. P. Stock Journal A Certificate 201 to 300," and ask you if you received these from Mr. Danziger in the course of your investigation for the Securities and Exchange Commission?

A. I did.

Mr. Rose: No objection.

The Court: Admitted.

Mr. Lucas: They may be received in evidence, then, your Honor?

The Court: Admitted.

The Clerk: 74 in evidence.

(The document referred to was marked as Government's Exhibit No. 74, and was received in evidence.)

Q. By Mr. Lucas: I show you, Mr. Mainland,

(Testimony of Allen G. Mainland.)

a single sheet of paper bearing the legend at the top as follows: "To accompany Schedule C sales of Trinidad International Petroleum, Ltd. stock," and ask you if you received this [314] from Mr. Danziger in the course of your investigation for the Securities and Exchange Commission?

A. I did.

Mr. Lucas: I offer it in evidence as the government's exhibit next in order.

The Court: Admitted.

The Clerk: 75.

(The document referred to was marked as Government's Exhibit No. 75, and was received in evidence.)

The Court: How many more documents do you have?

The Witness: Just two or three.

The Court: He says he has just two or three more.

The Witness: Maybe I should say five.

Q. By Mr. Lucas: I show you, Mr. Mainland, a hand-written letter on the stationery of Mrs. Frank B. Parsons, 801 Mohantango Street, Pottsville, Pennsylvania, addressed to Trinidad International Petroleum, which letter is stapled to another plain sheet of paper, and ask you if you received that from Mr. Danziger in the course of your investigation?

A. I did.

Mr. Lucas: I now offer this in evidence as the government's exhibit next in order.

(Testimony of Allen G. Mainland.)

Mr. Rose: I object to this on the ground that no proper foundation has been laid, the same is a transaction remote to any of the items specified or referred to in the charges contained in the indictment; that there are no antecedent [315] facts, and that the same are in the absence of testimony on the part of the person whose communication this purports to be; the same would be irrelevant and immaterial to any issue in this case.

The Court: Admitted.

The Clerk: 76 in evidence.

Mr. Rose: May an exception be noted?

The Court: Exception allowed.

(The document referred to was marked as Government's Exhibit No. 76, and was received in evidence.)

Q. By Mr. Lucas: I show you, Mr. Mainland, a cover, such as is ordinarily used, I take it, in corporate records, containing a series of sheets of paper, the first one of which bears the legend "Articles of Incorporation of Trinidad International Petroleum, Ltd.," and ask you if you received this from Mr. Danziger in the course of your investigation?

A. I did. I asked Mr. Danziger for the minute book of Trinidad International Petroleum, Ltd., and Mr. Danziger gave me that book, saying that was the book containing the minutes of Trinidad International, Ltd.

Q. And the book and its contents is now in the

(Testimony of Allen G. Mainland.)

same condition as when you received it from Mr. Danziger? A. It is.

Mr. Lucas: I offer this in evidence as the government's exhibit next in order. [316]

The Court: It may be marked for identification.

Mr. Rose: Just a minute, your Honor. Will your Honor permit a question to be asked on voir dire? I think your Honor should have these in evidence.

The Court: Yes.

Q. By Mr. Rose: I note here, Mr. Mainland, a notation on these minutes saying, "Originals with Lindo Company, D. H. Brown, solicitors in London, Colonel W. F. Nicholson;" that was there at the time it was given to you?

A. It was.

Q. Did you discuss where the originals were?

A. We may have discussed it. I don't recall.

Mr. Rose: There is no objection, your Honor, to the court receiving this exhibit.

The Court: It is admitted.

The Clerk: 77.

(The document referred to was marked as Government's Exhibit No. 77, and was received in evidence.)

Q. By Mr. Lucas: I show you, Mr. Mainland, a document bearing the legend, "United States of America Securities and Exchange Commission," and ask you to tell me what it is.

A. Which one have you?

Q. I will show it to you. Pardon me.

(Testimony of Allen G. Mainland.)

A. This is a certificate by the Secretary of the Securities and Exchange Commission setting forth each and [317] every registration that may have been made for Trinidad International Petroleum, Ltd., up until the date of this certification, which is October 11, 1941.

Q. And you recognize that as an official document issued by the Commission?

A. It is. And on the same day I personally examined the official Commission files and found the identical information in the files that is set forth in this certification.

Mr. Lucas: We offer that in evidence, if your Honor please, as a regularly and duly issued document properly certified to by the proper officers of the Securities and Exchange Commission.

Mr. Rose: May I ask a preliminary question of the witness, your Honor? I will probably want this in evidence.

This speaks of registration statement filed with the Federal Trade Commission. That was the name of the Securities and Exchange Commission at that time, wasn't it?

The Witness: It wasn't. But I could easily explain what the connection was. The Securities Act of 1933 did not provide for a Securities and Exchange Commission, and the administration of that Act was temporarily handled by the Federal Trade Commission. The Securities and Exchange Act of 1934 provided for the creation of the Securities and Exchange Commission, and at that time the

(Testimony of Allen G. Mainland.)

administration of the Securities Act of 1933 was placed in the hands of the Securities and Exchange Commission. [318]

Mr. Rose: But the Federal Trade Commission referred to in this certificate was functioning the same as the Securities and Exchange Commission at that time?

The Witness: So far as I know.

Mr. Rose: I haven't any objection, your Honor.

The Clerk: 78.

(The document referred to was marked as Government's Exhibit No. 78, and was received in evidence.)

Q. By Mr. Lucas: The next document is what?

A. This is a certification by the Secretary of the Securities and Exchange Commission, setting forth each and every registration that may have been made with the Commission under the name of Wake Development Company. The date of the certification is October 11, 1941. I will say that on the same day I personally examined the official files of the Commission and found no registration had ever been made under the name of Wake Development Company.

Mr. Lucas: I now offer this in evidence as the government's exhibit next in order.

Mr. Rose: To this offer, your Honor, objection is made upon the sole ground that the same is wholly immaterial. There is no contention on the part of the government, or so far as I know of anybody, that Wake Development Company was selling

(Testimony of Allen G. Mainland.)

Wake Development Company stock, except it was selling the securities referred to in the previous certificate—privately owned stock, and they weren't called [319] upon by any statute, the Wake Development Company, to register. They were not selling Wake Development Company stock, so it is wholly immaterial.

Mr. Lucas: To which statement the government takes exception and asserts a contrary view. The certificate is offered, particularly against the Wake Development Company, because in counts 8, 9, 10 and 11 it is definitely charged with having violated those registration counts, and this is the very best proof that can be offered of that. But it is admissible regardless of how the court views the measure of proof.

The Court: I am not prepared to rule now on the question of law. If I held with Mr. Rose it would be immaterial; if I held with you it would be vital to the case. I will admit it, reserving the legal question.

The Witness: I find I didn't complete my statement about the Securities and Exchange Commission files.

Q. By Mr. Lucas: Go ahead and complete your statement.

A. I examined the files——

Mr. Rose: Let me clear this up. We do not contend that the Wake Development Company ever made any registration in connection with Wake Development Company stock with the Securities and

(Testimony of Allen G. Mainland.)

Exchange Commission or with the Federal Trade Commission. We are stipulating that, so your Honor can have that fact before him. It won't necessitate any evidence on that point. [320]

The Witness: My statement wasn't clear the way I made it.

Q. By Mr. Lucas: You just go ahead and clarify your statement, Mr. Mainland.

A. I examined the files and determined that no registration statement was made by Wake Development Company, either for Wake Development Company stock or stock of Trinidad International Petroleum, Ltd.

Q. I am glad you made the explanation. I thought that was what you meant.

Mr. Rose: I thought my statement to his Honor eliminated any doubt of the position of the defendants on that particular point.

Q. By Mr. Lucas: Mr. Mainland, you handed me a document which appears on its face to be a certification by the Secretary of State of Nevada, Department of State, to the articles of incorporation of the Trinidad International Petroleum Company; is that correct?

A. Yes.

Mr. Rose: We have no objection to it.

Mr. Lucas: I don't want to unduly encumber the record. Trinidad is a corporation, and so is Wake. I am perfectly willing to accept counsel's stipulation that they are both corporations.

The Court: Put it in.

(Testimony of Allen G. Mainland.)

Mr. Lucas: I offer it as the government's exhibit next in order. [321]

The Clerk: 80.

(The documents referred to were marked as Government's Exhibits 79 and 80, and were received in evidence.)

Mr. Lucas: Your Honor, I see it is five minutes to five. Can we have the adjournment until tomorrow morning?

The Court: From now on I will do all the looking at the clock and the time for adjournment. I want to know a few things. How many more witnesses do you have?

Mr. Lucas: I have one, two, three, for sure, and possibly four.

The Court: This gentleman that has been waiting, what were you going to put him on for?

Mr. Lucas: He is the handwriting expert and the expert on examination of questioned documents for the Post Office Department.

The Court: Do you expect to put Carter on as your last witness?

Mr. Lucas: I am not certain, but that would be the normal course of things.

The Court: Who were your other witnesses?

Mr. Lucas: I have considerable testimony to outline with the witness Mainland, who is on the stand, Mr. Conway, the examiner of questioned documents, Mr. Carter, and Mr. Paddelford who ought to be a very short witness. Let me see [322] if I have a list here of any others, your Honor.

(Testimony of Allen G. Mainland.)

I can't find that list right now of other witnesses, but I do not recall any more at the present time.

The Court: You have no more out of the state witnesses?

Mr. Lucas: No, your Honor.

Mr. Rose: In view of counsel's statement here—

Mr. Lucas: May I just finish up one more thing? I know the court has in mind the length of time and the number of documents. When I have the defendant Carter on the stand, he will identify and we will attempt to offer through the witness Carter, roughly speaking, I would say, at least 50 additional documents, your Honor; so that in fairness to the court and counsel, my own expectation of time to be consumed by the government in the direct examination of Carter might be two full days.

The Court: It might and might not. This is going to go a lot faster from now on, because it has to. I have to go into a heavy case, a group of them, on the first of the month, and I must not get caught here, and I must allow this man as much time as you have taken.

Mr. Lucas: Oh, yes.

The Court: It is quite plain now we will have to work longer hours and have to work Saturday, as well as tomorrow. I can't work Monday because I will have to be engaged in pre-trial.

Mr. Rose: I want to indicate to your Honor, for the [323] guidance of opposing counsel, should it develop here that your Honor considers any purported document for the handwriting of any defend-

ant in this case that I am representing, it will not be necessary, I assure your Honor and opposing counsel, to bring in any experts. In other words, I have never made it a practice, knowing that a document is signed by a client of mine, to require the opposition to prove it by a handwriting expert. My quarrel with opposing counsel will be to the competency and admissibility of documents, but never as to any writing that is made by any client represented by me.

The Court: How long is that deposition of the defendant Danziger, in pages?

Mr. Lucas: The total number of pages, your Honor, is listed as 217.

The Court: I have had lots of experience, the same as you lawyers have, and there is nothing more tedious than reading a transcript, and in view of Mr. Rose's position that he claims the right to object to the questions and answers, we will start in on that the first thing in the morning when we are fresh. That is very hard work at any other time of the day I have found out, and you will have to have somebody to put on the stand, and put it in the way of question and answer.

Mr. Rose: If you defer it, your Honor, until next week, I will have a chance to check it and indicate to the court [324] what portions of that I consider addressing an objection to, and in that event it will really save time.

The Court: I don't see how it will, because it is tied into some other things here at this stage of the game.

(Testimony of Allen G. Mainland.)

Mr. Lucas: I would like to defer it wherever I can, but on the basis of the testimony that is contained in here I expect to offer additional exhibits. And I want to be heard, if the court please, and I can come down any time in the morning, on the proposition that no single objection can be made to any question or to any answer contained in these sworn statements here. They are sworn statements; they are not deposition. They are offered as evidence of——

The Court: You forget something. There may be a whole lot of stuff in there that I consider collateral to this present inquiry.

Mr. Lucas: Undoubtedly that may be true.

The Court: And that he might consider collateral. The only way to get at that would be to work it over by question and answer, as long as he takes that position.

Mr. Lucas: Very well.

The Court: We will start in on that the first thing in the morning.

(Whereupon, at 5:00 o'clock p.m., January 18, 1945, an adjournment was taken until 10:00 o'clock a.m., January 19, 1945.) [325]

Los Angeles, California

Friday, January 19, 1945, 10:00 a.m.

The Clerk: No. 15173, United States vs. Danziger.

Mr. Lucas: Ready for the government.

Mr. Rose: With your Honor's permission, before court opened there was a little discussion here between opposing counsel and myself concerning the manner in which the proposed testimony in this extra-judicial proceeding had between Mr. Mainland and Mr. Danziger on several occasions is to be presented. I don't know whether your Honor has indicated the specific manner in which it is to be presented. There seems to be a little confusion about it. I was under the impression that I would have available before me a copy of this transcript, which counsel has taken from me, and that the so-called original in his possession would be used by him; that he would read the question, and if I saw fit to object, that I would interpose an objection, and your Honor would thereupon make a ruling, and abiding the ruling the answer would or would not be read. Counsel seems to think that your Honor wants him to put some other person, particularly, on the witness stand here——

The Court: That is not necessary. You can give him a copy.

Mr. Lucas: I understood that your Honor asked me to have someone available to read the answer.

The Court: That is the way we usually put on depositions. But you don't have enough copies to go around. It is going to be very tedious for you, I realize, and you do it in the way that is most comfortable for you; keep your chair there, or just as you wish.

You haven't identified that document yet. You will have to put on the reporter that took it.

Mr. Lucas: No. This is an official document, if the court please, of the Commission, and as such is certified as a regular public record. However, the person who made the certification is available as a transcriber here. I can get in a few minutes on the telephone.

The Court: You can start in reading, and it might be a good idea to put her on the stand.

Mr. Rose: Just a minute, Mr. Lucas. I hazard an opinion here, your Honor, that if the transcriber were called here the transcriber would testify that she transcribed this to the best of her ability, or he did, and I so stipulate.

I don't want to make an issue of it, but the point is if there is any controversy arises as to the accuracy of one of these matters, it will become a matter of contention to be presented to your Honor, but I don't deem it necessary for counsel to put on proof that the transcriber will—and I so stipulate—testify that she transcribed this to the best of her ability.

Mr. Lucas: Will you further stipulate—— [328]

The Court: You will have to be more definite than that. This is a record of questions and answers, questions propounded to the defendant Danziger, and answers given by him, as transcribed to the best of her ability.

Mr. Rose: That is my stipulation.

The Court: This is a true transcription?

Mr. Lucas: A true and correct copy of the testimony given by the defendant Danziger at the time

and places set forth herein before the representative of the Securities and Exchange Commission.

The Court: What is the date?

Mr. Rose: There are several days, your Honor.

Mr. Lucas: Several days.

The Court: Give the dates.

Mr. Lucas: June 5, 1941; June 6, 1941; June 9, 1941, and June 16, 1941, taken before Allen G. Mainland.

The Court: At what place or places?

Mr. Lucas: Los Angeles, California.

Mr. Rose: We so stipulate.

The Court: Very well.

Mr. Lucas: I take it your Honor doesn't want to hear any further from me about my views as to this matter?

The Court: No, no.

Mr. Lucas: Are we ready to proceed?

The Court: Yes. [329]

(Thereupon, the transcript was read by counsel as follows:)

"Before the Securities and Exchange Commission, in the matter of Trinidad International Petroleum, Ltd., Docket No. SF-218. Room 1737, United States Court House and Post Office Building, Spring, Temple and Main Streets, Los Angeles, California, Thursday, June 5, 1941.

"Met pursuant to notice of the Commission, at 10:00 o'clock a.m.

"Before: Allen G. Mainland, Examiner for the Securities and Exchange Commission.

(Deposition of Jacob Danziger.)

made one contract with the Standard Mining Company involving all of the ground and that in turn was assigned or—no, subcontracted, I think, to Rousse and then Rousse assigned his contracts in whatever he got from the Standard Mining Company and they in turn assigned whatever they had from the original fee owners of the oil rights. [332]

“Q. What documentary evidence of the interest in these leases did Trinidad acquire?

“A. Well, they acquired or received the original recorded oil right documents from it, from 200 owners of 200 different parcels of ground. Those were all turned over to the company and I had them and finally lodged them in a place in London when I was back there on company affairs.

“Mr. Andrews, who was my legal associate at that time, and I checked them all and made some report for the company’s records, I think.”

The Court: Gentlemen, why don’t you help the reporter out? He doesn’t need to take all that down, except when some discussion arises. He can copy that.

Mr. Rose: I am glad your Honor mentioned it. He is talking very fast and it is going to be quite hard on the reporter. I was going to suggest, your Honor, that it is unnecessary for the reporter to take any of this, because he can resort to the record later, except in such instances where an objection is interposed, and then the place will be indicated.

Mr. Lucas: I will be very happy to accede to that.

(Deposition of Jacob Danziger.)

(Thereupon, counsel continued reading as follows:)

“Q. I show you the minutes of Trinidad International Petroleum, Ltd., which you have handed to me on a prior occasion, under date of July 5, 1933, the [333] minute book contains what purports to be the minutes of the first meeting of the board of directors and copied into the minutes is a letter dated June 27, 1933, addressed to the company and signed Hubert D. Rousse. Would you tell me what that letter is about?

“A. Well, it concerns the subject matter that we have just been talking about. It is the offer by Mr. Rousse who assigned the company the contract that he had with the Standard Mining Company on the base leases.

“Q. That offer copied into the minutes was accepted by the company at the time of the first meeting, was it?

“A. I take it that it was, the minutes should so indicate. Yes, the next page would indicate that the offer was accepted.

“Q. And thereafter the leases were made to your company?

“A. Well, now, I don't like using the words 'the leases were made to the company.'

“Q. I am following the wording in this offer.

“A. Well, regardless of what the offer says, that isn't what happened. Rousse's foundation for any title in those leases was a contract between the Standard Mining Company and Mr. Rousse, and he

(Deposition of Jacob Danziger.)

[334] assigned all of his rights under that contract. That carried with it such rights as he had in the leases. It isn't proper to say that he turned over the leases themselves because he never had the leases themselves. He had a contract covering a right in—I would guess it would be a contract, what you would say a sub-lease contract.

“When we speak of the leases themselves I take it you mean the some 200 different documents. There was a different one on each parcel of land. Most of them were absolute conveyances to Hill, Allahar and Gaskin of the oil rights in the property, not subject to payment of any royalty, excepting in some few instances.

“Q. So that Rousse's interest in those leases arose out of a contract he had with the Standard Mining Company? A. That is correct.”

Mr. Lucas: At this time I desire to introduce, if they have not already been introduced in yesterday's exhibit, a copy of the minutes of this first directors' meeting.

Mr. Rose: All of the minutes are in.

The Clerk: Exhibit 77, the minute book.

Mr. Lucas: I think they are only in for identification.

Mr. Rose: I stipulated they may be received. His Honor indicated they may be marked, and I agreed that they [335] may be received, and that is the ruling and the record should show that they are in evidence. Is that correct, Mr. Clerk?

The Clerk: In evidence, Exhibit 77.

(Deposition of Jacob Danziger.)

Mr. Lucas: Thank you.

(Thereupon, counsel continued reading as follows:)

“Q. It would follow that the interest that Trinidad International Petroleum acquired arose out of the contract which it entered into with Rouse?

“A. That is correct.

“Q. Do you have copies of those contracts at this time?

“A. Unless they are in these minute books here. I think the original of these—these are only copies of the minutes, aren't they? Isn't the original minute book somewhere? I am just a bit confused.

“Mr. Mainland: Off the record.

“(Discussion outside the record.)

“The Witness: These are the original. I guess it was the original company. I remember we only had a copy of the minutes hence my guess is that the original documents that Rouse signed were the original documents that were lodged in London when we were endeavoring to get some financing arranged there.

“The attorney for the underwriters was given [336] all of the original papers including all of the original oil rights of Hill, Gaskin and Allabar.

“By Mr. Mainland:

“Q. It isn't quite clear to me why those documents are in London. Would you go over that again?

“A. Yes. Well, I went to London sometime

(Deposition of Jacob Danziger.)

several years ago to pick up the threads of some financing for the company that Mr. Hill had undertaken and I took with me all of the base title records of the company and made a contact there ultimately with a concern that was headed by Colonel Nicholson, the technical name of which escapes me at the minute. We entered into an arrangement where they were going to furnish the company the money to drill different wells and incident to that arrangement we submitted to their solicitors all of the title papers bearing on our property rights, and when I left London those things were left with those solicitors.

“Q. At the time you left London was that deal still alive?

“A. Yes, it was still alive and yet it was—they were to furnish the money in the future at some subsequent time. I didn’t close the arrangement to completion where they were actually handing over any money. [337]

“Q. You had merely interested them?

“A. No, they had agreed that they would do it, but they were to do it in the future.

“Q. What was the contingency upon which they were to go ahead?

“A. Well, no, there was no contingency. They were going to do some financing to provide the money. They were merely underwriting and they were going ahead to raise the money in some form like a security house would raise money.

(Deposition of Jacob Danziger.)

“Q. Had you discussed with them a definite plan at that time?

“A. Oh, yes. Yes, we had a very definite plan. The details are not in my mind at the minute. I would have to get into some files to give you the details, but we agreed upon a definite plan under which they were going to furnish the money to drill different wells. They were going to furnish the sum equal to \$75,000 in American money.

“Q. I would like to know just what you mean by the statement that they would furnish money sometime in the future.

“A. Well, I mean they didn't furnish the money before I left London. I closed the agreement with them, we will say, today and it provided that—our understanding was that they would go on in the [338] immediate future to get the money from their clients in some form. Just what form that was, I don't know. I mean how they were going to get the money from their clients I don't know.

“They agreed that they were to furnish the company \$75,000 or its equivalent in pounds.

“Q. In consideration of the \$75,000 what were they to get?

“A. They were to get stock. They were buying Treasury stock of the company.

“Q. And the result of that was what?

“A. It has never been consummated.

“I also had another arrangement with the same people involving the Oil Royalties Investment Trust, Ltd., and that arrangement, I guess, was, we will

(Deposition of Jacob Danziger.)

say, just floated out on the waves after I got out here due to some circumstances that I won't go into at the moment and the Trinidad arrangement just didn't mature.

“Q. Going back for a moment to this Rousse letter that has already been referred to. I notice that Rousse was to receive a fixed rental of \$6,000 per annum payable quarterly under the terms of his offer.

“A. Now, the basic Standard Mining contract under which Rousse had a sub-contract, it provides for [339] the payment of a rental to the three owners of the land who created the company, Hill, Gaskin and Allahar, but that rental does not come into being. It isn't required to be paid until after the company shall have become qualified to develop the properties in the Island of Trinidad and that has not been done as yet.

“Q. Did I understand you to say that the basic contract to develop the leases as between the three owners of the property and the Standard Mining Company called for that payment to the three owners?

“A. Yes. And that same thing was carried on in Mr. Rousse's sub-contract.

“Q. Did I understand that Standard Mining Company never qualified to develop the property in Trinidad?

“A. No, the Standard Mining Contract called for it to cause to be organized a company in the future and that it would obligate that company to

(Deposition of Jacob Danziger.)

pay certain rentals, fixed rentals, to the owners of the property.

“The Standard Mining contract did not obligate itself to ever develop any properties or to pay any rentals. It was apparently some intermediate medium that they created for reasons of their own to accomplish what they were trying to accomplish.

“Now, I know that I have a copy of that contract here. I know the originals are not here, but I know I have a copy because I have had occasion to look at it in recent years.”

Mr. Lucas: I now move the introduction in evidence of the copy of the contract that was being referred to by the witness at that time, submitting that I now hand to counsel the copy that was then handed to Mr. Mainland in that investigation.

Am I right, Mr. Mainland? Is that the copy that was given you?

Mr. Mainland: That was given to the Commission; not to me.

Mr. Rose: You didn't furnish me with a copy of this.

Mr. Mainland: No.

Mr. Lucas: What I handed to Mr. Rose is what the Commission received from Mr. Danziger?

Mr. Mainland: Yes.

Mr. Rose: There isn't any objection to its reception.

The Court: Admitted.

The Clerk: 81.

(The document referred to was marked as

(Deposition of Jacob Danziger.)

Government's Exhibit No. 81, and was received in evidence.)

(Thereupon, counsel continued reading as follows:)

"Q. Will you make that available for my scrutiny? [341]

"A. Yes, I will give you the copy. I think it is probably the only one I have got. While it is a copy, I want it back ultimately, yes.

Yes, I will be very happy to do that.

"Q. Yes.

"A. By the way, it is a part of your S.E.C. record because Trinidad, before it was the S.E.C. when it was the Federal Trade Commission, started to qualify a treasury issue and all of this data had to be supplied and was supplied and I don't know whether that file is in contact with your file, but I am just telling you that all the information is in a S.E.C. record.

"Q. If that is the case you don't need to supply this.

"A. Until you tell me.

"Q. Until I ask for it because I may be able to locate it.

"A. You will find it all in your records, Mr. Mainland, I am very sure.

"Q. What steps did Trinidad—when I say 'Trinidad', I refer to the company, not the Island, unless I say 'Island'—what steps did Trinidad take to qualify itself to develop the properties in the Island of Trinidad?

(Deposition of Jacob Danziger.)

“A. Well, the company endeavored to obtain [342] the financing to drill some wells under its contract.

“Mr. Hill, the secretary, the prime mover in the enterprise, the man who seemingly spoke for his associate partners, who owned these oil rights and caused this company to be created, went over to England on some financial program that he had in his mind when he created the company. It appeared that these same properties some years ago had been under lease by these same owners to several British oil companies who had drilled and completed two wells on some of the property and they had spent a very considerable sum of money and had paid a very large sum of money for their leases to these same owners.

“Mr. Hill believed that he could get in England the financing necessary to drill the wells that Trinidad contemplated drilling largely from those old investors and he went over qualified by the company to sell its treasury stock on some basis that was fixed. He reported to me as chairman or president of the company, frequently as to what he was doing and he made some sales. The company got none of the money.

“I investigated thoroughly when I went over as to what he had done. With the sales he had made he had delivered his own stock and put the money in his pocket and he had attempted to interest some one or more brokers, you might say, towards furnishing the [343] company money to drill its

(Deposition of Jacob Danziger.)

properties and I picked up the thread of what he had done after the company had repudiated his power of attorney, or rather cancelled it.

“And my effort finally resulted in the contact and contract that I have described as having been made with Colonel Nicholson’s company.

“Q. In connection with the formation of the company, what was your interest?

“A. The Wake Development Company, the company of which I am an officer, entered into a contract with Mr. Hill that it would furnish American management, consisting of my services, in the development of an operation of those properties down there for a consideration of 165,000 shares of stock, that being a portion of the shares which the owners took out for the leases which they made on the property to the company through the Standard Mining Company.

“Q. Do you recall how much stock was issued in connection with the formation of the company?

“A. These minutes will show. There was—I think the total capitalization was issued, then half of it was kicked back, as we say, to the company to be sold for its own treasury purposes and the exact figures I don’t remember. They are all reflected in that minute book. [344]

“Q. It is my understanding that a million shares were issued; that 500,000 shares were returned to the treasury, of which 165,000 was issued to the Wake Development in accordance with the agreement you have just described and that 335,000

(Deposition of Jacob Danziger.)

shares were issued to the Standard Mining Company?

“A. Well, the legal theory was this: The Standard Mining Company, or rather Rousse turned over such rights as he had from the Standard Mining Company for a million shares of capitalization, then returned to the treasury of the company 500,000. The other 500,000 belonged to the Standard Mining Company and on their order it was issued—there was issued 335,000 to Hill, Allahar and Gaskin and as I said 165,000 to Wake Development Company.

“Q. 165 to Wake Development Company?

“A. Yes.

“Q. And that 165,000 was issued to Wake Development Company by reason of Wake’s contract with Standard Mining Company?

“A. With Rousse—well, let me see whether that was with Rousse or whether it was with Standard Mining. Anyhow it was a contract to furnish the management.

“Q. And the management was your services?

“A. That was the understanding. My services [345] were to be furnished to the company, that is my services in the actual field operation, not any legal services nor services that I was rendering or the Wake Development Company was providing me to render up to the point of actual physical operations on the properties. What they wanted was an American management in the drilling of their property. They had an unfortunate expe-

(Deposition of Jacob Danziger.)

rience with British management in the old concerns and they told me that what they were looking for was some American oil management. That is what we agreed to give them.

"I did render a lot of other services incident prior to that time. There has been no actual development or operation on the property.

"Q. In connection with that arrangement you assumed the office of president or chairman of the board and——

"A. Yes.

"Q. ——have occupied that office ever since?

"A. That is correct.

"Q. And have managed the affairs of the company?

"A. That is correct.

"Q. Ever since?

"A. Yes.

"Q. You mentioned Wake Development Company, [346] are you president of the Wake Development Company?

"A. I am either president or some other officer.

"Q. What other officer?

"A. What other officer of the company?

"Q. Yes.

"A. Well, I think that Mrs. Danziger is some officer, then my sister was secretary until her death. Then I think there has been some office substitute.

"Q. Your sister died in September, 1939, did she?

"A. That is correct.

(Deposition of Jacob Danziger.)

“Q. The Wake Development Company is owned by whom?

“A. It is now owned entirely by Mrs. Danziger.”

The Court: What is the date of this testimony?

Mr. Lucas: June 5, 1941.

(Thereupon, counsel continued reading as follows:)

“Q. As a matter of fact, she has always been the beneficial owner, has she not?

“A. No, there was a period from 1926 to 1939 when she did not own it.

“Q. Who owned it during that time?

“A. Alda Faulkner, her sister.”

Mr. Lucas: It should be “my sister”. May I ask, is [347] that a typographical error?

Defendant Danziger: Yes.

Mr. Lucas: Will you stipulate it should be changed?

Mr. Rose: So stipulated.

Mr. Lucas: It will read “my sister”.

(Thereupon, counsel continued reading as follows:)

“Q. Did the change in ownership affect your connection with the company?

“A. No, I always was the manager of the concern.

“Q. You kept the books?

“A. Yes, I was the manager of the concern from the time it was organized in 1923.

(Deposition of Jacob Danziger.)

“Q. Did Mrs. Danziger have anything to do with the management?

“A. Well, nothing more than I might have consulted with her. I did consult with her from time to time on some of the acquisitions that the company was making and the use of the capital investment. I discussed with her that. And then I have discussed off and on its general affairs at all times. She is a woman who has got some business intelligence and has a mind of her own.

“Q. Now, as for Mrs. Faulkner, did Mrs. Faulkner run the business or assist in running the business during the time she was alive? [348]

“A. Mrs. Faulkner was my, you might say, right hand in the office at all times from about 1925 on until her death.

“Q. She followed your instructions?

“A. She always followed my instructions.

“Q. Did either Mrs. Faulkner or Mrs. Danziger have anything to do with the negotiations or the arrangements which led to the 165,000 shares being issued to the Wake Development Company?

“A. They had nothing to do with them. They knew of them. They knew when I had a deal on, what I was doing, but they had no participation in the negotiations. They were all largely conducted in New York and neither of them were ever there at that time.

“Q. Has any treasury stock ever been sold and issued by Trinidad International?

“A. Yes.

(Deposition of Jacob Danziger.)

“Q. About how much of that stock has been sold?

“A. Well, in London when I was there I had an arrangement with a concern.

“Q. Excuse me for interrupting, Mr. Danziger, perhaps we will save time. We don't want to go into old history any more than we have to.

“A. All right, sir. [349]

“Q. Has any treasury stock been sold, say, in the last three years?

“A. No; and none has ever been sold in the United States.

“Q. I think that will answer that.

“A. Yes.

“Q. It won't be necessary to go into it any further.

“A. No.

“Q. Do you know of sales of Trinidad stock in the United States during the last few years, however, do you not?

“A. Of privately owned stock, not by the company.

“Q. As a matter of fact, the Wake Development Company has sold stock at intervals ever since 1934 and '35 out of the 165,000 shares already referred to; is that correct?

“A. That is correct.

“Q. In connection with these sales, at different times sales agents or sales representatives have been employed?

“A. Well, I wouldn't like to use the word ‘em-

(Deposition of Jacob Danziger.)

ployed' which generally implies a payment of the salary or fixed compensation, but have been used, I would say, yes. [350]

"Q. Can you give the names of any of those persons at this time?

"A. Well, we had an arrangement once with the Great Eastern Natural Gas Company. We subsequently had an arrangement with a man named Goodman. We had an arrangement with a man named Davis and we had an arrangement with a man named Aronson.

"Q. How do you spell that?

"A. A-r-o-n-s-o-n. Those are the only arrangements that the company had directly with anybody.

"Q. The names you have given have been individuals, with the exception of one and that was the Great Eastern Natural Gas. Who was the man you worked with in that sales arrangement?

"A. Well, the president of the company was a man named Dehart with whom I made the arrangement.

"Q. What was that, to the best of your recollection?

"A. Well, I will give you my best recollection, but again I will state that that arrangement is in writing and that is in the files of the S. E. C.

"Q. I think maybe your recollection will be better than that written document.

"A. My recollection was that they were to offer some rights to their own stockholders to acquire [351] Trinidad International stock and turn in

(Deposition of Jacob Danziger.)

Great Eastern stock as a portion of the purchase price.

“Q. What was the purchase price?

“A. I am not sure whether the contract provided that the purchase price was flexible or whether it was fixed definitely at five dollars a share and the credit for Great Eastern stock was two dollars a share. My mind is not very clear as to just what the exact terms of the contract were.”

Mr. Lucas: I offer in evidence this contract.

This is the document, Mr. Mainland, that was given by Mr. Danziger to the S. E. C.?

Mr. Mainland: I understand it was given to our representative by Mrs. Faulkner when Mr. Danziger was in England.

Mr. Rose: Did your Honor hear that? Mr. Mainland indicated that this copy was given by Mrs. Faulkner while Mr. Danziger was in England. Since there is some mention made, your Honor, that the agreement in question is in the files of the S. E. C., I am going——

Mr. Mainland: That is the copy referred to.

Mr. Rose: Is this the one in the S. E. C. files?

Mr. Mainland: Yes.

Mr. Lucas: I thought that was made very clear.

Mr. Rose: If that is the case, there is no objection.

The Court: It is admitted. [352]

The Clerk: 82.

(The document referred to was marked as

(Deposition of Jacob Danziger.)

Government's Exhibit No. 82, and was received in evidence.)

(Thereupon, counsel continued reading as follows:)

"Q. This arrangement you referred to, Mr. Danziger, is an agreement between Great Eastern and the Wake Development Company, is it?

"A. Yes.

"Q. And that Great Eastern was to issue rights to its own stockholders pursuant to that agreement, giving them the option, shall we say, to subscribe to Trinidad stock by making payment in cash and stock of Great Eastern to Wake Development?

"A. That is correct. Excepting I don't follow you literally that they were to issue rights. I don't think there was any firm obligation to issue a right. They had the right to go to their stockholders. I don't believe there was any formula that said they must issue a right, because I have in mind that they didn't issue a right to all the stockholders. Therefore, I am satisfied there wasn't anything in the contract that obligated them to do that.

"Q. It is your recollection, allowing for exceptional cases that the purchase price to be paid to Wake was five dollars for a block of one share of Trinidad stock and one preferential profit share note [353] of the par value of one pound each of Trinidad International Petroleum?

"A. That was the price to and beyond the time

(Deposition of Jacob Danziger.)

when a certain escrow that was paid in Wilmington, Delaware was out."

Mr. Lucas: Will you stipulate that should be "made"?

Mr. Rose: Yes. It is apparently a typographical error.

(Thereupon, counsel continued reading as follows:)

"I think I reduced the price after that by conversation, but the basis under which the business started was as you have indicated.

"Q. Did that escrow you refer to actually handle any of those subscriptions?

"A. I think there were some that went through the escrow, yes.

"Q. As a matter of fact, there were very, very few, were there not?

"A. My impression is there were few.

"Q. And that the great majority of subscriptions were sent in direct to Wake?

"A. That is correct.

"Q. Who contacted the holders of Great Eastern to interest such holders in availing themselves of the rights you refer to?

"A. Well, I came in contact with some [354] personnel, persons, that were acting in behalf of the Great Eastern Company, that is, individuals whose names I remember. There was Mr. Dehart. Then there was a man down in Wilmington that I met when the escrow was closed. I am trying to

(Deposition of Jacob Danziger.)

think of his name—Dube; and a man named Carman or Carter that Mr. Dehart brought to me and he was the man who went to Wilmington at the time that the escrow was closed down there. And subsequent to my return from Europe.

“Q. When was that?

“A. Well, when was that?

“Q. Yes.

“A. Well, I think this business started with the Great Eastern—I will ask you: Wasn't it '33 or '34?

“Q. I don't know.

“A. Well, I will have to refresh my recollection if it doesn't occur to you. Anyway, it was, I think I went about in '33 or '34, and this business started that same year just before I went away. That stands out very clear to me.

“Q. The time that I wanted you to tell me was when you returned from Europe. You mentioned returning from Europe.

“A. Yes. Oh, well, now—well, of course, I have given it to you informally, taking it from [355] something that fits in, my guess now is it was in '37 that I returned, but that is as a guess. I would have to get an old passport out to give it to you definitely unless you can give it to me from some information you have.

“Q. Can't you figure it back, Mr. Danziger?

“A. Well, it is pretty hard to—yes, I can figure it back. I would have to pick up some kind of a

(Deposition of Jacob Danziger.)

document of some character. I know my sister died in '39. I think it was two years before that.

"I think it was in '37 that I came back, but I can get the date one sure way. I have got my passport which will give me the date.

"Q. Was it in the summer?

"A. Yes, it was in the summer that I returned. I remember that. It was in July of that year. I think it was '37.

"Q. You think it was July, 1937?

"A. Yes; that is my best recollection from memory, although I can give it to you to the day, if I can look at my passport.

"Q. As a matter of fact, after the original agreement was signed between Wake Development and Great Eastern Natural Gas, you had no contact with anyone in connection with the sales of stock under that agreement except with William Carman or Warren Carter; isn't that true? [356]

"A. Well, no, I had some—until I left New York to go abroad I had some contact with Dehart.

"Q. You say you left to go abroad perhaps in 1934. From that time on Carman was the man who did all the selling?

"A. Until I returned from abroad when he brought to my hotel in New York a Mr. Winslow.

"Q. What did you tell Mr. Carman about the Trinidad Company?

"A. Well, I think I told him everything that I knew about it.

"Q. Did you tell him it had been producing in

(Deposition of Jacob Danziger.)

Trinidad, in the Island of Trinidad; that it had producing properties?

“A. I told him, which is a fact, as I remember it, that one of the wells on the company’s property had all the tools in it except the boiler and it was flowing oil. That had been told to me by Mr. Hill and I verified it from other sources subsequently.

“Q. Have you ever visited Trinidad?

“A. I have not been in Trinidad.

“Q. You have not been in Trinidad?

“A. No, at no time, but I verified that from other independent sources.

“Q. At any time since you first met Mr. Carman, have you told him that you were associated with the [357] Doheny Oil interests?

“A. Well, I think I told him or someone told him that at the time I first came in contact with him what my oil experience had been.

“Q. Were you at that time connected with the Doheny oil interests?

“A. Not at that time.”

The Court: Do you want to break off here?

Mr. Lucas: Yes, your Honor. Thank you.

(A short recess was taken.)

(Thereupon, counsel continued reading as follows:)

“Q. You had been at some time?

“A. I had been for 27 years.

“Q. You told him that you had been for many years?

“A. Yes, that is right.

(Deposition of Jacob Danziger.)

“Q. But that you weren’t now connected?

“A. Well, I am sure that that is what I told him, because that was a fact and I am quite sure I never told him anything that wasn’t a fact.

“I can’t visualize sitting down and having a conversation in that exact language with him; I haven’t any recollection of having done so, but I am quite sure I told him all of my experience and what my contacts had been and that the fact that I was not then immediately interested in Doheny, that I was [358] not then connected with them. I am very sure that I told him that.

“Q. Did you tell him that the stock or the notes of Trinidad were listed on any stock exchange?

“A. I am sure I told him they were not.

“Q. They were not?

“A. That they were not, because they were not.

“Q. Have they ever been listed on any stock exchange?

“A. No application has been made to list them any place. They have not been.

“Q. Do you recall that you had any discussion at all with Mr. Carman about whether or not the stock was listed?

“A. I don’t recall any conversation with Mr. Carman. It is very unlikely that I ever had one.

“Q. I don’t think you intended to say what it sounded like. You have had conversations with Carman, have you not?

“A. When I used the word ‘one’ I mean the

(Deposition of Jacob Danziger.)

conversation of the nature you indicated. I will put it another way. I am very sure I have never had any conversation with Mr. Carman concerning the possibility or the likelihood of ever listing the company stock anywhere.

“Q. Have you ever informed him that the stock [359] or notes of Trinidad were listed on the London Stock Exchange?

“A. I have never informed him of any such facts as that because it was not a fact.

“Q. I think I asked you a question earlier that you didn't answer directly. Has Trinidad ever qualified to develop those properties in the Island of Trinidad?

“A. It has not.

“Q. In other words, at no time has it been in a position to exercise the rights which presumably it acquired under its contract with Rousse; is that correct?

“A. Well, if it had the necessary finance it could very quickly qualify.

“Q. Has it ever had the necessary finances?

“A. No, it has not ever had the necessary finance. I recommended that they do not undertake any operation whatever until they had at least \$75,000 cash in hand.

“Q. This stock that has been sold by Wake Development Company was sold for what purpose?

“A. Well, I presume for the purpose that anyone else sells anything, to get the proceeds from it.

“Q. Well——

(Deposition of Jacob Danziger.)

“A. I don’t mean to be facetious.

“Q. For what purpose were the proceeds to be [360] used?

“A. Well, the Wake Development Company was to use it for its own purposes.

“Q. Not for developing the properties in Trinidad?

“A. No. The Wake Development Company has no thought of doing so. It never has devoted any portion of its sales money to that purpose.

“Q. Your testimony is that the sales made by Wake had no connection with any attempt to raise the \$75,000 issue”——

Mr. Lucas: I have the word “issue” here, and it is stricken out.

Mr. Rose: That’s right.

(Thereupon, counsel continued reading as follows:)

“——which you felt was necessary before development work could be started in the Island of Trinidad?

“A. Certainly not. I had no such intention.

“Q. From what you say I take it that the Wake Development Company is a personal holding company or a personal vehicle for yourself and your wife; is that true?

“A. I wouldn’t say for myself and my wife; it is wholly owned by Mrs. Danziger and I don’t own any part of it and I never have. She furnished the initial capital under which it was organized.

(Deposition of Jacob Danziger.)

“Q. In connection with my investigation, Mr. Danziger, I have learned that in addition to the agreement which you have referred to by which the holders of Great Eastern stock in some instances were given the right to subscribe to securities of Trinidad, there were other securities, the holders of which were given the right to subscribe to Trinidad. Can you give me more information about any agreements under which those subscriptions were made?

“A. Well, a very similar privilege, very similar to the one given to the Great Eastern stockholders was given to some stockholders of two affiliated companies called South American Oil Fields Company and All American Petroleum Company.

“Q. About what year was that done?

“A. I think that was done, I think it must have been the same year in which the business was done with the Great Eastern company.

“Q. About 1934?

“A. Yes, assuming that that is the correct year.

“Q. How long did that operation continue?

“A. Well, I don't know that there ever has been any discontinuance. I mean by that the proposition would still be open to any South American stockholder. There were no campaign made except a very desultory effort around 1934.

“Q. Who made that campaign? [362]

“A. Well, Mr. Davis, that I spoke of, I think visited some of the stockholders and I think at some time Mr. Carman or Mr. Carter was given some of

(Deposition of Jacob Danziger.)

those names and I think he made some calls, or people working with him or for him.

“Q. Have any of those holders subscribed or evidenced an interest in subscribing within the last three years? A. In the last three years?

“Q. Yes.

“A. Well, I think we have had a few inquiries, but I don't believe in the last three years any of that group of stockholders have made any purchase.

“Q. Now, you also offer rights, when I say 'you', I mean Wake Development Company, to stockholders of Golden Quebec Mines?

“A. Yes, I recognize that and I told Winslow—Winslow asked me at one time, if my memory is correct, that he had some stockholders in some other company and wanted to know if the same basis would be all right and I told him it would.

“I don't think Golden Quebec—there was some other gold mining company. I don't think they figured in our situation before I went to Europe at all. I mean that I left within a month or two of the time I made the arrangement with Great Eastern and [363] my recollection is that there was no other company's name suggested but the Great Eastern until '37.

“I am thinking we are getting mixed up here in our years, Mr. Mainland. I want to get straight here if we are going to deal in periods. The impression I have is that I got back from Europe in '37 and that the Great Eastern business started in '34. Now, I don't think that is correct, because one

(Deposition of Jacob Danziger.)

of the other of the dates is wrong because I wasn't gone any three years and I went to Europe very quickly after the Great Eastern business started.

"Q. Would the minutes of the company help?

"A. There are some records that I am quite sure we can fix more definitely when I went aboard and when I got back. I don't think that stuff helps. That doesn't help me except by process of elimination, yes, that is true. Well, it was some time after July, '35 that I went to Europe. That I know from there, but it still doesn't tell me when I returned and I think probably that is nearer correct, because I was gone over a period of two years. I can be—I can remember of being away two Christmases. I think that is accurate.

"Q. Well, you left in '35 and came back in July, 1937?

"A. Yes. And it was in '35 that the business was done with Great Eastern. The thing that I very [364] definitely have in my mind as to the date when the Great Eastern business started was it started the month before I went away, because I can remember the protesting about my going away and it was done very quickly.

"Q. Now, I was asking you about the Golden Quebec Mines Company stock. You said only that Winslow mentioned that he had a list.

"A. Yes.

"Q. When did you meet Winslow?

"A. I didn't meet Winslow until I returned from abroad.

(Deposition of Jacob Danziger.)

“Q. What were the circumstances of the meeting?

“A. Mr. Carman brought Mr. Winslow to the hotel where I was staying in New York. I was in New York for about ten days on my return home from Europe. And Carman brought Winslow to the hotel and told me that he was turning over all of the Great Eastern business to him.

“Q. Up until that time had Carman been acting as sales agent to interest these Great Eastern stockholders in Trinidad stock?

“A. He had been acting as such and maybe others as well, but he had been—I would say he was the top. He was the man. I had a lot of correspondence with him when I was abroad on that subject.

“Q. And it was Carman who had the list of [365] holders, was it not?

“A. He was the one who had the list of Great Eastern holders. I never have seen it.

“Q. Then just after you returned from Europe and you were still in New York where you stayed for approximately ten days after you returned, Carman brought Winslow to your hotel room?

“A. That is correct.

“Q. Carman said he was giving up the business, did he?

“A. Well, he may have used the word ‘giving up’, or ‘stepping out’. He told me in detail of some difficulty he had gotten into in Chicago where he had been convicted and I remember very distinctly his

(Deposition of Jacob Danziger.)

discussing the matter with me, because he handed me a brief, a lawyer's brief on appeal and wanted to know what I thought about it. That sticks in my mind, because I thought it was very poor legal presentation of the situation, as I have a right to have my opinion as a lawyer. So that fact stands out in my memory.

“Q. Did Carmon indicate to you that the fact that he had been convicted in Chicago and his case was then on appeal, because of that it would be impossible for him to continue to sell Trinidad stock for Wake?

“A. Why, I don't know that he said that was the reason, but that he was turning it over to Winslow [366] and he told me he had been convicted. The thought that stays in my mind was that he said he was stepping out of the picture and he was handing everything over to Winslow.

“Q. Did he say he had handed over his list of Great Eastern holders to Winslow?

“A. I don't know that he made that detailed statement.

“Q. Didn't he say what he intended to do was to have Winslow act as his front, but he would still stay in the deal?

“A. No, he gave me quite the contrary impression. He gave me the impression that he was stepping out of the deal or giving it up or turning it over or conveying it to or passing it to Winslow. That was the impression that he gave me.

(Deposition of Jacob Danziger.)

“Q. Did he tell you that henceforth that Winslow would be sending in correspondence?

“A. I don’t remember his making that statement at all. From the conversation I just assumed Winslow was stepping in his position in the deal.

“Now, whether he said, ‘Hereafter you will hear from him direct’ or not, I don’t know. He may have made such a statement. It would be perfectly consistent with the general situation that stayed in my [367] mind.

“Q. What was he deal that he was stepping out of?

“A. Well, the deal that I made with the Great Eastern Company.

“Q. What authority would Carman have in handling over the deal?

“A. Mr. Dehart brought Mr. Carman to me right after we signed the agreement and said he would handle the business and all the business that I had after that was with Carman and not with Mr. Dehart. I had no business with Mr. Dehart after I left New York and I had all my business with Carman by telegraph and letter. And in the closing of the escrow—the making of the escrow down in Delaware in behalf of the Great Eastern Company, Carman was the man who went down. Now, what his position was with Great Eastern, I don’t know at the moment.

“Q. Do you know of Winslow’s position with the Great Eastern?

“A. I don’t know that he had any.

(Deposition of Jacob Danziger.)

“Q. You have merely relied on Carman’s statement that Winslow was going to take over?

“A. I know he was turning it over and at that time technically I don’t think that the Great Eastern contract was a binding contract on us. I mean the terms of the escrow had not been complied with. The [368] contract I made provided they were to handle a certain amount of stock over a certain period of time and they hadn’t done it.

“Q. Then the deal was merely that Carman had a list of stockholders and he was authorized by you to give rights to these stockholders?

“A. No. The deal was a continuation—in other words, I didn’t cancel out formally the Great Eastern Company; I just continued along with them after there had been a technical default in their contract in having failed to handle a certain amount of stock by a certain date and I just continued dealing right on with the same person in the same way for a long, long time and Carman was the only individual who seemed to be having an active part in the thing up to the time I returned from New York when Mr. Winslow came into the picture.

“Q. Now, what arrangement did you make with Winslow after Carman introduced him to you?

“A. At that time he bought and paid for some stock that went into his name. The amount I would have to get from the record for you or you have them.

“Q. How did he make payment?

“A. Well, I don’t know. I believe he must have

(Deposition of Jacob Danziger.)

given me a draft or a check, because I know it wasn't cash, I think. [369

“Q. Was it his own check?

“A. No, I don't think so, Mr. Mainland; I am not positive, but I have an impression for having sent that out to California, rushed it out for deposit, because that is what makes me know it was a check of some character.

“Q. Did he give you the check on the occasion of your first or second contact with him?

“A. I met him twice. My guess would be it would be the second occasion.

“Q. That was within ten days after you arrived from Europe?

“A. Yes, it was within that period because that is when the business was done.

“Q. And that check was in payment of a purchase of stock he made from Wake Development?

“A. Yes; and the stock was put into his name.

“Q. Was that purchase an investment by Winslow?

“A. I don't know what he was going to do with it; he didn't tell me. It was a purchase by him.

“Q. Carman hadn't bought any stock from you?

“A. No.

“Q. Did this purchase have anything to do with his taking over the deal?

“A. That I don't know. He negotiated with me for some stock. I forget the price paid for it and I [370] delivered it to him. Now, whether Carman got—Carman got no part of the consideration and

(Deposition of Jacob Danziger.)

I take it therefore that Carman didn't figure in the deal with Winslow any more. He may have had knowledge of it or he may have participated in it with him, for all I know. I don't know.

“Q. Did Winslow pay the exact purchase price for the stock?

“A. Well, I don't even fix the amount right now, Mr. Mainland; I can't imagine that there was any circumstance where he paid more or less than the purchase price. That fact would probably have stayed in my mind. I don't have anything in my mind on that point.

“Q. Now, I think you have said you don't remember the exact amount that he paid?

“A. No, I don't, and I don't remember the shares. I can get the number of shares from the books.

“Q. Would that tell you the amount?

“A. No, I don't think it would, but I don't remember offhand what price per share he got the stock for.

“Q. Do you remember whether or not you returned a part of that purchase price to Winslow then or later? [371]

“A. No, I don't think I ever did. I don't think I ever had any transaction of that character with Winslow.

“Q. Did you ever see Winslow again after meeting him those two days in New York?

“A. Never.

(Deposition of Jacob Danziger.)

“Q. Did you ever have any communication from him?

“A. I think that something has come into the office that my sister may have received, it may have been received addressed to the company for me.

“Q. Do you remember that there were communications?

“A. I think that there was some activity on his part that was done by correspondence.

“Q. And was that activity in connection with stockholders of the Golden Quebec Mines?

“A. It might have been.

“Q. Was it in connection with stockholders of Great Eastern?

“A. It might have been.

“Q. Do you recollect that it was?

“A. Not in detail.

“Q. Do you recollect definitely that it was in connection with sales of Trinidad stock owned by Wake?

“A. Yes, that was the only business we had with Mr. Winslow.

“Q. As a result of Winslow's efforts were sales [372] of Trinidad stock made?

“A. My guess is that he did make some sales.

“Q. And on occasions when he made sales was he paid a commission?

“A. I don't know; my impression is that he worked on a net basis, that he sent in a certain amount of money and got so many shares for it.

(Deposition of Jacob Danziger.)

That was the deal I know that I had with him, that I made with him personally in New York.

“Q. Don’t you definitely recollect, Mr. Danziger, that in most cases payment for stock purchased by individuals was paid for by those individuals and not by Winslow or anyone else?

“A. Well, that was generally true. The buyer generally sent his money in, but there was some business with Winslow that wasn’t done in that fashion, because I have narrated the circumstances of the personal deal that I made with him when I first saw him.

“Q. You have mentioned the one deal.

“A. Well, my impression now is that there were some sales that Winslow sent in a net price for that did come direct from the buyer although I am not a hundred per cent positive of that. I would have to get into that maze of correspondence and stuff that you have on that and maybe I could state more definitely. [373]

“Q. In one of that correspondence that you have furnished me, Mr. Danziger, was there any correspondence you had with Winslow. I would like to get that correspondence.

“A. I don’t know that I had any, Mr. Mainland. I have given you all the correspondence to go through and unless possibly Mr. Winslow may have had some correspondence directly with my sister or with the company that she handled, some of that stuff, I probably never even seen. But my impression is, it is an impression only, that there was some

(Deposition of Jacob Danziger.)

business with Winslow where he sent in some net sum himself.

“Q. Did you discuss the question of Golden Quebec Mines Company stockholders in the likelihood that some of them might be induced to subscribe to some of Trinidad stock on the occasion of your meeting with Winslow?

“A. My impression is that he said he had some other concerns or other stockholders in other companies and if he could make a trade on a similar basis to Great Eastern, why, Wake would get the same net price, and it was agreeable, and my impression is that I said it was.

“Q. Are you sure it wasn't Carman you discussed the Golden Quebec with?

“A. I doubt it very much unless I saw something [374] in correspondence that would change my remembrance. My remembrance is that the only person I contacted was Carman and that was before I went abroad, which was about a month of operations on his Great American deal”——

Mr. Rose: “American” has been stricken.

Mr. Lucas: Will you stipulate it is “Great Eastern”?

Mr. Rose: Yes.

(Thereupon, counsel continued reading as follows:)

——“and that there was no occasion for him to talk about any other list. His deal hadn't progressed long enough or far enough to bring about a suggestion that some other list might also be used.

(Deposition of Jacob Danziger.)

“Then, unless there is something in the correspondence from Carman to me when I was in London during the couple of years that I was gone, that would indicate some reference to Golden Quebec, why, I would say then that there was no conversation with Carman about Golden Quebec or any other stock.

“Q. Did you have any written agreement in connection with Golden Quebec similar to the one with Great Eastern?

“A. No, no agreement at all. It was simply—my recollection is that it was word of mouth by Winslow and I said ‘Yes,’ it was all right and I think there were, as you have probably found out from the [375] records, some few Golden Quebec sales.

“Q. Can you give me Winslow’s address?

“A. I don’t know where he is; I haven’t heard from him in a long time.

“Q. Don’t you have a record of his former address?

“A. Unless there is something in the correspondence that you have; I haven’t any record.

“Q. Don’t you have any address book or diary that would give it?

“A. We don’t have an address book and we don’t keep a diary. Where my sister might have written to him, where she might have mailed it I wouldn’t know. Carman’s address, as you know, was one place one week and another place on the next week

(Deposition of Jacob Danziger.)

and I don't think that Winslow had any permanent base so far as I know he didn't have.

“Q. Was he a resident of New York?

“A. I don't know whether he was a resident. I know he was in New York at the time he brought him there. I remember his type, he was a small fellow as compared with Carman who was a big fellow and beyond that I don't know anything about him.

“Q. And you say you have never seen Winslow since that time? A. No. [376]

“Q. Has he ever called on you in Los Angeles?

“A. No.

“Q. But you or your sister did have some correspondence with him and it is your recollection that some sales were made through his efforts calling on Golden Quebec stockholders? A. Yes.

“Q. And possibly Great Eastern stockholders?

“A. Put it Great Eastern stockholders and possibly Golden Quebec stockholders.

“Q. Do you know of anyone else who worked on the list of Golden Quebec stockholders?

“A. No.

“Q. Did Carman work on that list?

“A. Not to my knowledge, Mr. Mainland. Your suspicion that other people and that Carman might have worked on it might be correct. I couldn't make a positive statement that Carman didn't. So far as I know he didn't.

“Q. So long as you have brought the question of Carman's identity up, you mentioned when you

(Deposition of Jacob Danziger.)

first spoke of Carman that he also went by the name of Carter?

“A. Well, I think I stated Carman or Carter. I wouldn’t want to say that he went by the name technically—but could I explain that to you? [377]

“Q. Yes, will you do so?

“A. Well, during my early contact with him, that is the first month or the portion of the month that I was in contact with him when I was in New York when this business started, at some time in that period he told me that he was having some financial and divorce difficulties with a wife and that he was using the name of—now, it was either Carman or Carter, I don’t remember which name he was using. If he was introduced as Carman, then he told me he was using the name of Carter because of some difficulty and if he had been introduced as Carter, he was using the name of Carman. My impression is that he was introduced to me as Carman, but he told me he was using the name of Carter because the name Carman is the name that I cabled him and wrote to him frequently in the following months after I first met him when I was abroad.

“Q. Did he tell you any other names that he had?

“A. No.

“Q. Have you ever heard any other aliases?

“A. No, I haven’t heard any that could be safely taken as a positive statement that he had. I have heard you verse”——

Mr. Lucas: Will you stipulate it is “voice”?

(Deposition of Jacob Danziger.)

Mr. Rose: I will stipulate; but, Mr. Maitland is using—in fact that is correct English, but it doesn't make any difference. To me it is understood that he is telling Mr. Mainland something has been said about it. I don't know whether the word "verse" or "voice" is intended, but I will stipulate that that is as you choose.

Mr. Lucas: v-e-r-s-e, verse, wouldn't make any sense.

Mr. Rose: Yes, it does. "I have heard you verse a thought."

Mr. Lucas: That is a New York accent, I think, for "voice".

Defendant Danziger: I probably said "voice".

Mr. Rose: We will stipulate you can change it to "voice".

(Thereupon, counsel continued reading as follows:)

"I have heard you voice a thought that certain other names were all Carman and that may be so, I don't know.

"Q. When was the last time you saw Carman?

"A. In July. If it was 1937 that I returned from abroad, it was then; that was the last time I saw him, the last time I was east was my return from Europe during July. I think it was '37, during the ten-day period that I was there.

"Q. Have you heard from him since then?

"A. No, sir. [379]

"Q. Have you ever communicated with him?

"A. I have not.

(Deposition of Jacob Danziger.)

“Q. You have had no contact whatever with him?

“A. None whatever, unless you might term the Winslow contact which he gave to Winslow. That might be indirectly, technically some contact with him, but I have had so far as I know none and I know Winslow hasn't had any contact with him on our business. Nothing that I have heard from Winslow stays in my mind as him having any continuing contact with Carman.

“Q. Do you know whether your sister, as your office assistant, had any communication with Carman?

“A. Well, I am very sure that my sister didn't have, or she would have told me so and if she had told me so it would have stayed in my mind, because I thought he was very definitely out of the situation and if anything had brought him back into it I think if I had been told that she had heard—that she had heard from Carman, that it would have stayed in my mind. No one in my office has had any contact with any of these people since my sister's death.

“I mean we have had several different girls there, but none of them handle the business that Mrs. Faulkner handled. They carry on no correspondence with anybody; I handle all of it and have since my sister's death. [380]

“I may dictate letters, but I mean to say no one would function as she functioned. She would take the mail and open it and handle it and if there was

(Deposition of Jacob Danziger.)

something about it that she thought I should know about she would tell me. That has not been true since her death.

“Q. At any time have you instructed Carman to cease trying to sell stock for Wake Development?

“A. I have never given him any such instruction except when I was abroad he got into some sales——

“Q. Let's don't go into back history.

“A. No, but I am answering your question whether I ever instructed him and I started to tell you why.

“Q. Go ahead.

“A. When I was abroad I did send him a cable calling the deal off and ending it, and gave him the reason for it and told him not to make any more sales. I subsequently withdrew that instruction.

“Q. At the time in July, 1937, when he advised you that he was going to turn the deal over to Winslow, did you instruct him that he was through as far as you were concerned? A. No, sir.

“Q. In other words, his withdrawal was entirely voluntary; you had nothing to do with it?

“A. It was. [381]

“Q. With terminating the arrangement with Carman?

“A. I did not.

“Q. If he had chosen to he would have been at perfect liberty to go ahead at that time just as he had before?

“A. Yes. He was at perfect liberty to go on, at that time. Of course, I always had the legal

(Deposition of Jacob Danziger.)

right to terminate the arrangement any time I wanted to because they were technically in default.

“Q. There is still another company whose stockholders were approached, and in some cases the stockholders wrote to Trinidad or to Wake asking about their rights. That was South MacKenzie Island Mines.

“Your replies to the persons who inquired indicate that you offered rights to certain of those stockholders. With whom was your arrangement made?

“A. Well, that was—when Winslow mentioned the mining company, my impression is he mentioned several mining companies. I don’t know whether he mentioned that name or not, but he said he had some on the list and the South MacKenzie inquiries came in the same form that the Golden Quebec Mines came in.

“Q. That was with Winslow you had these conversations?

“A. That is my best recollection. [382]

“Q. And this was in July, 1937?

“A. That is the only conversation I had with him and that was at that time.

“Q. These various securities, first the South American Oil Fields, and the All American Petroleum Company, and then the Great Eastern Natural Gas, and the Golden Quebec Mines Company, and the South MacKenzie Island Mines were all worthless securities at the time you offered them the rights, were they not?

(Deposition of Jacob Danziger.)

“A. I so considered them; I didn’t think they had any value.

“Q. Then in giving them certain rights on these respective securities you were merely giving them a reduction in price on Trinidad stock and notes?

“A. That was the effect of the transaction.

“Q. You were taking in a worthless security and allowing a credit for it to arrive at a net cash price which, in effect, was the price at which you expected to be paid; isn’t that correct?

“A. Well, it was the price that we were realizing net. That was quite obvious.

“Q. What did you do with the stock that was surrendered?

“A. Why, I guess we have it. I know I am conscious of seeing a lot of certificates in the office.

“Q. You never considered it of any value?

“A. I never have considered it of any value; it might have some hidden value, I don’t know about. If you run into it I would like to know about it.

“Q. As a matter of fact, you knew that the companies were defunct at the time you offered the rights, didn’t you?

“A. I didn’t know any such detail about the mines, because Winslow didn’t tell me. I knew Great Eastern Natural Gas Company was defunct and I knew the All Americas and the other company was defunct. They had no assets.

“Q. The price at which you offered your Trinidad stock to these people was the price at which

(Deposition of Jacob Danziger.)

you would have been glad to sell it for cash without any surrender of stock?

“A. Yes, I would have been willing to. There have been times when we would have been very happy to do so.

“Q. As a matter of fact, from your standpoint the rights were merely a device to assist you in selling the Trinidad stock, weren't they?

“A. Well, I would put it another way: They were a formula or a device used by the Great Eastern people, selling this stock, to aid them in selling the stock. [384]

“Q. I am referring not only to that deal, but the other deals.

“A. Well, I don't like to use the word device, but they were conceived and prepared and used by the organization or the individuals who were selling the stock. We didn't create the basis or suggest the idea.

“Q. You accepted the idea?

“A. We did.

“Q. Didn't you assist in working the offering of the rights out?

“A. Only to this extent that in the Great Eastern case, and I think in the All Americas case, they had printed a questionnaire that was sent to their list. They sent it, but the return reply was addressed to the Trinidad Company and its office in Los Angeles. That was part of our original contract with the Great Eastern people that permitted that questionnaire and we received it and sent

(Deposition of Jacob Danziger.)

them on in ordinary routine to the Great Eastern people.

“Q. Who worked out the formula by which the subscriptions from South MacKenzie Mines and Golden Quebec Mine stockholders were permitted to subscribe?

“A. By using that formula do you mean the questionnaire that was involved? I don't think there was any questionnaire involved. There was none that we had anything to do with. [385]

“Q. I don't mean that.

“A. You mean the basis of exchange?

“Q. Yes.

“A. Well, it must have been Winslow.

“Q. Don't you know?

“A. No, I don't know. I have never figured it out.

“Q. Well, it surely must have met with your approval?

“A. It did.

“Q. Because your stock was being sold.

“A. But the Wake Company was satisfied with the amount of money that we were getting per share for Wake stock that we were delivering under any sales with the South MacKenzie or Golden Mines stock.

“Q. Now, when Winslow suggested the use of these other lists he had, did you tell him the minimum price at which you would be willing to accept sales?

“A. I must have.

(Deposition of Jacob Danziger.)

“Q. Do you remember that you did?

“A. No, I don’t remember saying in words that the price must be this or the price must be that. I am sure we agreed upon the price that Wake was to get per share of stock.

“Q. You have said that the basis of exchange was worked out by Winslow. Your correspondence with [386] inquirers indicates that letters written by you or by the secretary of Wake outlined the basis of exchange to inquirers?

“A. No doubt about that.

“Q. Where did you or your office or your secretary obtain the basis?

“A. Either my sister or myself must have gotten it from Winslow. Somebody had to figure it out for us. The figures must have come to us from Winslow. I remember reading some of the letters. There were some figures involved. As to how the basis was figured out it is beyond me. We were only interested in getting and knowing what we were getting per share of Wake stock.

“Q. I think that you said you paid commissions in some cases to Winslow or may have paid commissions to Winslow on sales or subscriptions that were sent in?

“A. That is possible, Mr. Mainland. I don’t know that we have. If I get hold of any record that would bear it out, I will make the statement very positively.

“Q. Don’t you remember definitely whether or not commissions were paid to Winslow?

(Deposition of Jacob Danziger.)

“A. I have no definite recollection of any having been paid. I can see how it could be logically possible [387] because in the business that Carman had there was a commission went back and it is possible that the same thing continued with some of the sales that Mr. Winslow made. I am not even prepared to say that Winslow made any number of sales.

“Q. Doesn't Wake Development Company have a set of books?

“A. Well, you have seen the only set of books they have, Mr. Mainland.”

“Q. I am afraid I haven't seen any set of books.”

Mr. Rose: Just a minute. I object to that as argumentative, your Honor.

The Court: It may stand.

(Thereupon, counsel continued reading as follows:)

“A. You have seen the only books we have. They have a checkbook, the ordinary checkbook record that the company would have; and they have a minute book.

“Q. How far back does that checkbook go?

“A. Well, the one that you saw, I don't know how far back it went. I know it went back beyond my sister's death because the book that I gave to you she had kept up to her death. Now, how far back of that it went I don't know. So I know it went back of September, 1929.”

Mr. Lucas: Shall we make that “39?”

(Deposition of Jacob Danziger.)

Mr. Rose: I assume from the next question it was "39." [388]

(Thereupon, counsel continued reading as follows:)

"Q. 1939?

"A. '39, I beg your pardon.

"Q. Assuming that commissions may have been paid to Winslow, how would they have been paid?

"A. Well, I think when my sister paid any commissions that she probably took Wake cash and bought a draft or post office order. I don't know; I never did any of it. I didn't handle any of it. I can see how it could be done. I know that no Wake checks were ever paid out.

"Q. Did you authorize your sister to pay commissions to Winslow?

"A. My sister knew what the deal was and I have no recollection of sitting down and saying 'You may do this and you may do that,' but she carried out the routine of any arrangement that I made that she was cognizant of. And just how she might do it and the routine, I don't know.

"Q. Didn't you sign the check?

"A. If a Wake check were given I would sign a Wake check because I signed all of them.

"Q. How would your sister get any money if you didn't sign a check of some kind?

"A. She took money that came in to Wake and paid it out then I would have to sign a check before [389] she could pay it out. She did have legal authority to sign Wake checks, because she signed

(Deposition of Jacob Danziger.)

them all the time that I was gone, yes, but it isn't likely when I was here that she would sign a Wake check for anything other than office bill of a few dollars or something that she purchased herself.

"Q. To summarize the testimony you have just given about the records of the Wake Development Company, you said the company has a minute book and that it has a checkbook.

"A. And a bank passbook.

"Q. And it is my understanding that you have said in effect that there are no other books of record or account; is that correct?

"A. That is correct.

"Q. That the checkbook you do have you know goes back as far as your sister's death in September of 1939, but that you don't know how much further it goes back than that and you have shown me all the checkbooks you do have?

"A. That is correct, and the passbook. I rather think the passbook goes back for a much longer period.

"Q. Did you file any Federal income tax for Wake?

"A. Yes.

"Q. How do you make a tax return out without carrying any books? [390]

"A. Well, what I generally do, and I make them up myself, I got to the stubs of the Trinidad sales, stock issues from Wake, take the names and the amount of money that was received from the sale and list them in the income tax returns, each name

(Deposition of Jacob Danziger.)

and each sale, and each amount of stock that was sold, and that has been the only source of income that the Wake Development Company has had.

“Q. Don’t you show the commissions paid as costs of sales?

“A. No, I think the income tax return shows the net amount received by the Wake Development Company from each sale.

“Q. How do you know by reference to your stock stubs and certificate stubs what the net proceeds from that sale was?

“A. Well, if there is any doubt about it in my mind, I can take the date of the issue of the stock and go into my bank deposits and verify the amount. I mean to say every sale that Wake has made so far as I can remember has been on a basis where something came in other than cash, either in a draft, post office order, or a check, or something that went into the bank account and it is reflected in the deposit slips.

“Q. Wouldn’t those deposits represent gross receipts and not the net results? [391]

The Court: It is 12 o’clock.

Mr. Rose: There are just a few more questions on this particular page.

Mr. Lucas: We were just about to complete the hearing.

The Court: All right.

(Thereupon, counsel continued reading as follows:)

“A. They would. If the amount was a case

(Deposition of Jacob Danziger.)

where we were paying off a commission, why, then that deposit would be the gross amount, but I haven't—since I have been making up the income tax returns since 1939 there haven't been any cases of that character. The amount has come in and the commission has not been paid. No commissions have been paid.

“Q. You say there have been no commissions paid during 1939 or 1940?

“A. We have received net amounts. I mean to say what we have received we have kept. We haven't paid any commissions.

“Q. Mr. Danziger, I don't like to take any more of your time than possible, but I am only about half through. Could you come back at 2:00 o'clock?

“A. Well, could we defer it to some other day?

“(Discussion outside the record.)

“Q. Will you come Friday, at 10:00 o'clock?

“A. Tomorrow will be Friday. That will be all right. [392]

“(Thereupon an adjournment was taken until Friday, June 6, 1941, at 10:00 o'clock a.m.)”

Mr. Lucas: That is the conclusion of the testimony.

The Court: 2:00 o'clock.

(Whereupon, at 12:00 o'clock noon, a recess was taken until 2:00 o'clock p.m.) [393]

(Deposition of Jacob Danziger.)

Los Angeles, California,

Friday, January 19, 1945, 2:00 P. M.

The Court: How is your reading voice, Mr. Lucas?

Mr. Rose: I have agreed with counsel, and with your Honor's permission, I will start reading and he can check me.

The Court: Neither one of you quite comes up to Sinatra in voice.

Mr. Rose: We haven't anybody to do any screaming around here, your Honor. This is Volume 2, your Honor, bearing the data of the proceedings indicated in the original preamble in this record. This was taken on the 6th of June, 1941.

(Thereupon, counsel continued reading as follows:)

"Jacob Danziger, resumed the stand as a witness for and on behalf of the Commission, having been previously duly sworn, was examined and testified further as follows:

"Direct Examination (Continued)

"By Mr. Mainland:

"Q. We will resume the hearing.

"I didn't ask you yesterday your full name, Mr. Danziger.

"A. My full name is Jacob Morris.

"Q. Jacob Morris Danziger?

"A. That is right.

(Deposition of Jacob Danziger.)

“Q. And your residence address? [394]

“A. At present 1356 South Greenwood Avenue, Montebello.

“Q. How long have you lived there?

“A. About 10 days.

“Q. Where did you live prior to that time?

“A. For a good many months I was living at the Hotel Stowell, 412 South Spring Street.

“Q. Who were the other directors of the Trinidad International Petroleum?

“A. Well, the record directors, that is, those that were elected and still have their legal title as directors, were George E. Paddleford, E. F. Fennell, H. A. Andrews, myself—I would have to look at that minute book.

“Q. Surely.

“A. E. K. Davis. Mr. Davis is now deceased. His office has never been filled.

“Q. Are any of those persons representatives of the Standard Mining Company group?

“A. Well, that is hard to answer yes or no. The arrangement that I made with the Standard Mining Group acted through Mr. Hill. He was to go on the Board of Directors and I associated these other gentlemen with me. No, whether you would say they were representatives of the Standard group, I can't say.

“Q. They were your choices, were they?

“A. They were people that I suggested that I [395] would furnish them. They wanted an American board and I told them that I could get these

(Deposition of Jacob Danziger.)

people to join me on the board, and the fact that they approved of it, being the then owners of all the stock, I would say legally makes them their representatives.

“Q. Have any of them been active?

“A. No, no one has been active except myself.

“Q. Do you know a person by the name of A. L. Roberts?

“A. Only having had correspondence from him and stock being issued to him. I never met any such person.

“Q. Have you had correspondence from him?

“A. Well, my impression is that in that correspondence that I gave to you there was something from Roberts. If there is any, why, then I have had it with him; if there isn't, I haven't. I remember the name. I remember stock being transferred to him and certificates endorsed by him coming in for retransfer and I am just assuming that there was some correspondence.

“Q. Have you ever met him?

“A. No, sir.

“Q. Do you have any idea as to his true identity?

“A. No, I have no idea that he isn't Mr. Roberts or that he is anybody else other than Mr. Roberts.

“Q. Has he handled any business for you in the East? [396]

“A. Well, I think some stock came in or some

(Deposition of Jacob Danziger.)

sale came in in which he was either the seller or the intermediary or something; technically, I would say, being that the stock that was Wake Development stock, he did have some business for us.

“Q. Was he an eastern representative of Wake Development?

“A. Oh, we never designated him as such excepting as inferentially anyone selling the Great Eastern list or seeking to make sales to the Great Eastern list was a representative of the Wake Company because Wake was furnishing the stock under the agreement that we had made with the Great Eastern. So technically, I would presume that he might be called a representative of the Wake Development Company.

“Q. Did you mean to testify that this man Roberts called on at least one holder of Great Eastern stock and advised him of his right to subscribe to Trinidad stock?

“A. That is an impression that I have, but he was one of the fellows that figured in that Great Eastern combination some place, but it may be that that isn't so. I would have to get a look at correspondence involving Mr. Roberts' name. The name is clear to me.

“Q. I will show it to you in a moment.

“A. I say it may be I will get a one from that.

“Q. Did you pay Roberts, or did Wake pay Roberts [397] a commission?

“A. I don't think so. I just don't remember the circumstances surrounding the relation with

(Deposition of Jacob Danziger.)

him. I remember the name very distinctly. He got some stock.

“Q. Do you remember the name of a person that he sold stock to? A. No.

“Q. If he sold it to them?

“A. No, I don’t, and I don’t remember whether there were more than one or not. I would have to get some correspondence to tell me what the situation was surrounding Roberts.

“Q. Is Dr. Paddelford a director of the Wake Development Company? A. No.

“Q. Has he any connection with Wake Development Company?

“A. No, any more than he is a friend of mine. He has no connection with the Wake Development Company.

“Q. Had you ever asked him to handle any matters in connection with Wake Development or Trinidad? I refer now just to the past two or three years, say two years.

“A. No. When the Trinidad Company was organized——

“Q. That was more than two years ago.

“A. ——I discussed the situation with Dr. [398] Paddelford at that time.

“Q. Have you discussed the affairs of the company with him, the affairs of Trinidad with him in the last two years.”

“A. Not in detail. I have seen Doctor quite frequently in that period of time and he knows that

(Deposition of Jacob Danziger.)

I have this deal on but I haven't discussed the details of any other business with him at any time.

"Q. Any conversations you have had with him in the last two years in connection with Trinidad were of a casual nature, were they? A. Yes.

"Q. Perhaps Dr. Paddleford asked you how things were looking in Trinidad or something like that?

"A. Something of that character. It would be nothing more than that.

"Q. Have you discussed with him the value of Trinidad stock?

"A. No, I never have and I don't think he would know what it was worth.

"Q. Or the market price of Trinidad stock?

"A. I might have at some time said something to him about what I was doing with it or what sales had been made of it.

"Q. Did you discuss with him the price at which shares were selling on the London Stock Exchange?

"A. Oh, no, of course, I didn't discuss that with anybody because I never sold on the London Stock Exchange.

"Q. Did Dr. Paddleford own a block of Trinidad stock? A. No, he does not.

"Q. He owns no shares whatever in the company? A. He does not.

"Q. Does he own any notes?

"A. He does not.

"Q. Has he expressed an interest in acquiring some shares or notes recently?

(Deposition of Jacob Danziger.)

“A. No, he never has.

“Q. Has he ever mentioned to you that it was a difficult matter to purchase shares or notes?

“A. No. Something comes to me that may be in response to your question and, therefore, I will volunteer it and if it isn’t——

“Q. Go ahead.

“A. A cousin, Mr. Ed Danziger, I gave some Trinidad stock to, and I remember that Dr. Pad-dleford, sometime a year ago or two years ago told me that some apartment house owner that he knew had asked him something about the value of Trini-dad stock that Mr. Edward Danziger had given her by way of security for some rent and he did ask me what he should say to her as to its [400] value and I said to him, ‘Just tell her that it is of highly speculative nature.’ And to tell her the company had some good-looking properties but the real value had not been yet determined. That is the only oc-casion I think we have ever discussed any ques-tion of value and he never expressed any desire or indication of his desire to acquire the stock.

“Q. And he never commented that it was next to impossible to purchase Trinidad stock or notes because there was none offered?

“A. Not to me and I don’t think to anybody else.

“Q. As a matter of fact, there would be a plen-tiful supply if anybody wanted it, would there not?

“A. If they sought me or came in contact with me or Wake Development Company in any fashion

(Deposition of Jacob Danziger.)

there was a supply available up to the amount of our holdings.

“Q. You mentioned yesterday quite briefly a company called Oil Royalties Investment Trust, and I think you said that was a company that you had something to do with forming and that the interested parties from the standpoint of supplying the capital were English people who were represented by a man named Nicholson.

“A. I made that statement.

“Q. Is that correct? A. That is correct.

“Q. You didn’t go into details, but you indicated [401] that that venture had never reached anything more than an incipient stage.

“A. Well, I wouldn’t use the word ‘insipient’. It never reached a completed financing stage.

“Q. Would it be fair to say that the Oil Royalties Investment Trust never reached the stage where any capital was put into the business and never actually became active in operations?

“A. Well, I would have to answer that question ‘no’, and then make an explanation.

“Q. All right.

“A. If I may.

“Q. Yes.

“A. The arrangement made with the Nicholson firm involved a firm purchased by them of a certain amount of stock in the company, all covered by a written agreement.

“Q. In what company?

“A. In the Oil Royalties Investment Trust.

(Deposition of Jacob Danziger.)

And they gave a promissory note for a block of stock and whether or not you want to say that that was capital I can't determine for you, but that was the fact.

"Q. What happened thereafter?

"A. Well, that contract was made with them before I left London and I came back and ultimately the situation just faded.

"Q. When you say you came back you refer to the [402] time you came back in July, 1937?

"A. Yes, that was the only time I was over there.

"Q. And you say the situation faded after that. Do you mean that the note given by these parties in exchange for stock was never paid?

"A. It was never paid and they did not go on and make any sales of treasury stock of that corporation in accordance with the contract that was made with them.

"Q. And what was your capacity with that company?

"A. Well, I was employed by contract. I had an employment contract with them that I was to furnish the company headquarters in California and I was to purchase for the company from time to time any oil royalties which the company might seek to acquire with their capital.

"Q. Did you ever purchase any royalties for the Oil Royalties Investment Trust?

"A. Not for them.

(Deposition of Jacob Danziger.)

“Q. Did you ever purchase securities of any kind?

“A. For that company?

“Q. Yes.

“A. No.

“Q. Did you ever attempt to buy them?

“A. No.

“Q. The company never got far enough to enable you to attempt such purchases; is that correct? [403]

“A. The first thing I did was to make application to register the company as a dealer and I was refused that registration; and the venture just died on the vine, I would say, after that.

“Q. Was there a man named Stanley serving as an officer or director of Oil Royalties Investment Trust?

“A. I don't recognize the name. I organized the company in the United States, I think in Nevada, caused it to be organized through my law office, and I think we have what we call a dummy board, that is, just for the purpose of incorporation, and the contract provided that we were to turn over to the Nicholson firm, the complete organization, resignation of officers and directors, and make London a branch office, all that sort of stuff. That was all done and whether or not the London firm accepted the resignations and elected a man named Stanley, I don't know.

“The name doesn't register with me as being a director and it would be possible that he could be

(Deposition of Jacob Danziger.)

only if they elected him back there, having the resignation of the other directors.

“Q. If they did elect such a man, you are unaware of the fact?

“A. That is correct.

“Q. And you had no contact or business dealings with him? [404]

“A. That is correct.

“Q. And you do know, do you not, that Oil Royalties Investment Trust never actively engaged in business aside from what you have already stated?

“A. That is correct unless the London end have done some things that I don't know about, which they could have legally done.

“Q. Have the London officers or directors of the Company made any overtures to you to acquire substantial blocks of Trinidad stock or notes?

“A. Of Trinidad?

“Q. Yes.

“A. Have the directors or officers of the Oil Royalties Investment Trust?

“Q. Yes.

“A. Made any approach to me to acquire Trinidad?

“Q. Yes.

“A. No.

“Q. In the last two years have any British groups attempted to buy blocks of stock or notes from you or through you?

“A. Well, not since I was in London.

(Deposition of Jacob Danziger.)

“Q. Have any American interests attempted to acquire blocks of stock or notes?

“A. Well, now, anyone in America who has made any serious attempt to acquire it has acquired it. I [405] mean by that we have had no approach from any large interest excepting individuals.

“Q. And anyone who exhibited an interest in acquiring the stock was an individual who wanted to buy a small number of shares; isn't that correct?

“A. I don't like to use the word 'small' because that necessitates our determining what is a small amount, but some individual.

“Q. You know of no syndicate that was interested in acquiring a block which would control the company?

“A. No, I know of no such effort being made by any syndicate.

“Q. Have you authorized Dr. Paddleford to handle correspondence for Wake Development Company?

“A. No. I am very sure he never has.

“Q. Have you ever told Dr. Paddleford that the market price of Trinidad units in England was about 71 shillings?

“A. No, I am very sure I never told Dr. Paddleford any such thing.

“Q. And in American money how much is 71 shillings?

“A. Well, I always figured 4 shillings to the dollar. Am I about right?

“Q. I don't know.

(Deposition of Jacob Danziger.)

“A. Well, yes, I think a shilling is a quarter. That is at the normal rate of exchange. [406]

“Q. So at the rate of about 4 shillings to the dollar, 71 shillings would be——

“A. 18 or 20 dollars, some where along in there. Of course, I never told him such a thing as that because it was not a fact. I never discussed any market prices with Dr. Paddleford. He had no interest in that detail of the situation.

“Q. And you have never been offered any such outlandish price for the units of Trinidad stock?

“A. We never have.

“Q. Do you think the units are worth that much?

“A. No, I don't think they are worth that much because they can be bought for a lot less. I don't think anything is worth more than it can be bought for.

“Q. Have you ever asked Dr. Paddleford to send your regard to A. L. Roberts?

“A. No. I don't think Dr. Paddleford knows the name of Roberts.

“Q. You haven't asked Roberts to handle some matter in connection with Pan-American Petroleum in Baltimore or anywhere else in the East?

“A. I should say not. I have no relation with Pan-American and have had none since 1924.

“Q. Dr. Paddleford hasn't assisted you in selling stock at Trinidad, has he?

“A. No, in no active way. His name may have

(Deposition of Jacob Danziger.)

been [407] of some assistance, being a director, but no other way.

“Q. And you haven’t told Dr. Paddleford that Wake had no Trinidad notes or stock for sale?

“A. No, of course, I haven’t made such a statement.

“Q. This may be repetition, but you have never met A. L. Roberts or Roberts by any other name, either in Los Angeles or anywhere else?

“A. I have not.

“Q. Do you know of any person who was sent to Trinidad, the Island of Trinidad, during 1940, for the purpose of assisting in negotiating the sale of a block of Trinidad stock or notes?

“A. I know of no such episode or any such sending or any person being sent.

“Q. Do you know of any meeting of a group of stockholders of Trinidad in Los Angeles during 1940, at which such a trip was discussed, or at which a proposition to acquire a sizeable block of Trinidad was discussed?

“A. I know of no such meeting in 1940 or any other time.

“Q. I show you a file of original correspondence comprising six letters all on the letterhead of Wake Development Company and all addressed to J. Arthur Hazelton, Mantua, New Jersey. [408]

“If you will glance over them then I will ask you the questions I have about them.

“A. Yes.

(Deposition of Jacob Danziger.)

“Q. Do you recall that stockholder of Trinidad, J. Arthur Hazelton?

“A. I do.

“Q. Have you ever met him?

“A. No, sir.

“Q. Do you recall whether or not J. Arthur Hazelton is the stockholder who purchased his stock apparently through the efforts of A. L. Roberts?

“A. From the correspondence I gather that Roberts had some part in the transaction with Dr. Hazelton. His name is mentioned there.

“Q. Do you recall, aside from that correspondence, that such was the fact?

“A. Well, the correspondence brings to my mind that it undoubtedly was the fact because, as I say, his name is mentioned there.

“Q. The three of these letters are signed J. M. Danziger. Can you identify the signature as your own?

“A. That is my signature, yes, to each letter.

“Q. One letter is dated July 27, 1938, and is signed A. Faulkner. Can you tell me whose signature that is?

“A. I wrote it. It is my handwriting. [409]

“Q. Do you make it a practice to sign your sister's name?

“A. Not a practice. I have done it on many occasions.

“Q. Did you write that letter?

“A. Do you mean did I actually do the typing?

(Deposition of Jacob Danziger.)

“Q. No, did you dictate it or type it?

“A. It looks to me like I must have typed it.

“Q. Do you operate a typewriter?

“A. In a fashion.

“Q. Well, sufficiently to knock out a letter when the occasion demands?

“A. Yes. I think, because of the fact that it doesn't have any insignia down in the corner and it looks like it might be my typing, that is my guess.

“Q. Now, there are two additional letters or I should say the remaining two letters are dated March 28, 1940, and April 22, 1940, and are signed A. Faulkner. Can you tell me whose handwriting those signatures are in?

“A. They are both mine.

“Q. You signed 'A. Faulkner'?

“A. Yes.

“Q. Your sister had died about six months before that, had she not?

“A. She died in September of '29. [410]

“Q. September of 1939.

“A. '39. She was still the record secretary of the company.

“Q. What was your purpose in signing the secretary's name after her death?

“A. We had no other secretary and I don't know that I had any particular purpose in mind.

“Q. Did you type or dictate those letters?

“A. Well, I can't tell from looking at them whether I typed them or not. I signed them. That

(Deposition of Jacob Danziger.)

is my handwriting but I don't know whether I typed them or whether I dictated them.

"Q. Did you cause each one of those to be mailed to Dr. J. Arthur Hazelton?

"Q. I assume I did.

"Mr. Mainland: Before asking any further questions, for the purpose of the record, I will introduce these six letters as one exhibit.

"(The six letters referred to were marked Commission's Exhibit No. 1-A to 1-F, inclusive, and were received in evidence.)

"By Mr. Mainland:

"Q. During the period between June 1938 and the present date, have you had any correspondence with A. L. Roberts in connection with Hazelton's transaction?

"A. Well, I have no independent recollection of correspondence with him. If there is any in those files [411] I gave you, yes, I did have. I don't know of any, as I say. I don't have any independent recollection of correspondence with him.

"Q. I refer you to the letter of March 7, 1940, and particularly the second of the two paragraphs which says, 'We will deliver to Mr. Roberts the certificate of 100 shares of Communications Research, Inc.,' to what were you referring in that paragraph?

"A. Well, apparently, Hazelton must have sent something in to be delivered to Mr. Roberts, as I can figure it out. If I had Hazelton's letter re-

(Deposition of Jacob Danziger.)

ferred to here, I could probably give you a little clearer picture.

“Q. Where is Hazelton’s letter?

“A. I don’t know. Do you have it?

“Q. No.

“A. I don’t know where it is. I gave you all the correspondence we have in our files.

“Q. Do you remember a letter from Hazelton enclosing the subject matter referred to?

“A. No, I don’t. I don’t remember the incident at all. I see in this that we acknowledge receipt from him of certificates and according to instructions we would transfer them to his name and new certificates would be forwarded. It may have been a letter or a slip of paper, I don’t know what form it was. I have no [412] independent recollection of the transaction in any way.

“Q. Do you remember what the disposition was you made of the hundred shares of Communications Research, Inc., and the envelope referred to in your letter to Mr. Hazelton?

“A. If you can recall my attention to it—I haven’t the faintest recollection or understanding of the transaction. This letter tells me that something was sent. That is all I know about it. I haven’t it in my mind.

“Q. Do you still have that certificate of Communications Research, Inc., and the envelope?

“A. No, I don’t. I don’t know. I haven’t looked for such a thing as that at any time that I have been requested to search our files. I, there-

(Deposition of Jacob Danziger.)

fore, haven't it in my mind. There may be something of that character in our files.

"Q. You apparently were in a position of a bailee or a trustee for somebody's stock certificate, were you not?

"A. That would be the legal affect of it. If someone sent something to us to deliver to somebody else we become in law a bailee.

"Q. And you have no recollection you acted in that capacity?

"A. No. I won't say I don't have any recollection. [413] I am very sure I acted in whatever capacity he constituted us to act but I have no recollection of the transaction itself. I don't remember that Hazelton ever sent us anything. And the name Communications Research is just as foreign to me as the name—I never heard of it until I saw it in this letter. At the time, undoubtedly, I knew what the transaction was about or I wouldn't have sent this letter.

"Q. Did you hand the matter referred to in your letter to Dr. Hazelton to a Mr. Roberts at any time?

"A. I never met Mr. Roberts and I have never handed him anything.

"Q. Did you mail him those documents?

"A. I don't remember a single thing about that transaction, Mr. Mainland.

"Q. Are you able to testify whether or not you still have those documents?

"A. No, I won't testify that I still have or don't

(Deposition of Jacob Danziger.)

have something that I didn't make a visit to find out whether I had them. I haven't any independent recollection of the matter to which you called my attention at all.

"Q. If you still have those documents where would they be?

"A. They would be very likely in our Trinidad files or our Wake files, Wake-Trinidad files. [414]

"Q. Did you make all those files available to me when I was in your office?

"A. You asked me for correspondence with stockholders and I gave you everything I had. You asked for files and I gave you all the folders that we had. A thing of that character might be in the office and not be in the folder file or in the Hazelton file or in the correspondence file and unless I searched and found that it was or wasn't there, I can't answer your question. Of course, you never asked me for anything on that particular subject before this, Mr. Mainland, therefore, I had no occasion to search for it.

"Q. You mean merely that I didn't ask you for the stock certificate or the letter?

"A. You never asked me for a communication that Dr. Hazelton sent to us to be delivered to Roberts or a stock certificate that he sent to us to be delivered to Roberts.

"Q. I asked you for all correspondence you had with Hazelton or with Roberts.

"A. You did and I gave you everything I had.

(Deposition of Jacob Danziger.)

“Q. Would it do any good if I asked you for those things now?

“A. If you had asked me for—if you had said to me there was an envelope addressed to Mr. Roberts that had a certificate of stock in it that you were to deliver in [415] some fashion to Mr. Roberts and if I had such an envelope or such a document, I would have searched in places in addition to searching the files. I would have searched in other places.

“Q. I think you will recall that I asked you quite particularly about the subject matter that I have just been questioning you on.

“A. No, you asked, I remember very distinctly your asking me about stock certificates issued, Trinidad stock issued to Roberts and notes issued to Roberts and transfers by Roberts and I found all the stubs and the stock certificates and the note certificates and all that. I have no recollection of your asking me about this.

“That name there ‘Communications’ is the first time I have any recollection of that ever being brought to my mind excepting at the time I had receipt of the letter, but since then I haven’t any recollection of any discussion with you on the subject.

“Q. Here is a file of correspondence which you delivered to me on a previous occasion. When you have had a chance to peruse that, I want to refer you particularly to a carbon copy of a letter ad-

(Deposition of Jacob Danziger.)

addressed to J. Arthur Hazelton, under date of September 6, 1938. A. I have read the letter.

“Q. In that letter in the last paragraph you offered to have an eastern representative call upon Hazelton, do you not?

“A. I state, ‘Should you desire further detailed information regarding Trinidad International Petroleum, Ltd., company, we shall be pleased to have an eastern representative communicate with you at an early date.’

“Q. Did you dictate that letter? A. Yes.

“Q. And the original was sent to Dr. Hazelton?

“A. I take it that it was.

“Q. Who was the eastern representative you had in mind in that letter?

“A. I don’t know whom I had in mind, if anybody. I could have had someone call on him if he had made a further request. I don’t know just who I would have asked to call on him.

“Q. Did you have any correspondence with an eastern representative during the pendency of your negotiations for the purchase of Trinidad stock with Hazelton?

“A. Well, I don’t know that I would be able to say that at that particular time that I had any correspondence with any particular person, but there wasn’t a time that I couldn’t have had Mr. Davis or Mr. Aronson or possibly Mr. Winslow or Mr. Goodman, other people that had to do with it at various times. [417]

“Q. How about Mr. Carman?

(Deposition of Jacob Danziger.)

“A. I don’t know whether at that time I knew where Mr. Carman was. If that was in ’38 I couldn’t have had Mr. Carman because I didn’t know where he was. I hadn’t a word of communication from him.

“Q. How about Mr. Roberts?

“A. I probably had some address of some character for Mr. Roberts.

“Q. Was Mr. Roberts an eastern representative of yours at that time?

“A. Well, no more so than anybody who was selling stock or acquired stock for sale or had some relation to the situation might be called a representative.

“Q. Did you ask Mr. Roberts to call on Dr. Hazelton? A. No, I did not.

“Q. I refer you now to the carbon copy of the letter dated June 11, 1938. A. I have read it.

“Q. In this letter you say——

“A. I didn’t write it.

“Q. Pardon me. Did you not write this letter?

“A. No, that isn’t my letter. That is apparently a letter written by my sister as secretary of the company.

“Q. Do you have any knowledge of that letter?

“A. Nothing except—did I have at the time?

“Q. Yes.

“A. Or do I have now?

“Q. Well, first, do you have now?

“A. Well, I find a carbon of that in the file that was given to you and I assume that the original of

(Deposition of Jacob Danziger.)

that letter was sent to the addressee and was signed by the signature that apparently is typed on there.

“Q. In accordance with office practice, was it customary for your sister to write letters such as these? A. Yes.

“Q. On occasions when your sister wrote such a letter, did she show it to you before she mailed it?

“A. Sometimes, things that were outside of ordinary routine she would show to me. There were many letters that I never saw or had anything to do with. While I was away for nearly two years she handled the whole thing herself without any contact with me beyond telling me what happened in correspondence.

“Q. I refer you now to a carbon copy of a letter to Hazelton under date of June 17, 1938, which apparently was signed J. M. Danziger, President.

“A. That is correct.

“Q. Did you write that letter?

“A. Undoubtedly I did. [419]

“Q. The letter indicates that you are enclosing to Dr. Hazelton a certificate for 300 units of preferential profit-sharing notes in the Trinidad and a certificate of stock numbered B-190, which apparently was for 300 shares. Had you received payment for this stock?

“A. I don't know. It may have been a transfer. I would have to get the stubs.

“Q. Can't you tell from the correspondence?

“A. No one can tell from this letter. It may be that if I would read all the correspondence I

(Deposition of Jacob Danziger.)

could tell you about the transaction. The letter simply says, 'We are enclosing certificates.' It doesn't state whether it was a sale or transfer and I remember there were some transfers involving Dr. Hazelton.

"Q. If the letter of June 11, which apparently was signed 'A. Faulkner, Secretary', was actually sent, it would indicate that he was purchasing stock, would it not?

"A. The letter of June 11 indicates that Dr. Hazelton was buying 300 shares of stock and the payment was to follow.

"Q. This entire file of correspondence came from the regular files of Wake Development Company, did it not?

"A. Yes. This is the file I handed to you?

"Q. Yes. [420]

"A. Apparently it came from our files, yes.

"Q. And the file taken as a whole would indicate as far as it goes the nature of the transactions that were being had with Dr. Hazelton?

"A. I think so.

"Q. Can you tell from the correspondence whether that was a straight sale of Trinidad stock or whether it was a result of surrender of Great Eastern or some other defunct security?

"A. Do you mean this particular transaction in June?

"Q. June 17, 1938, yes.

"A. I can't tell from the correspondence. I can't tell from the letters whether it involved

(Deposition of Jacob Danziger.)

money alone or whether it was Great Eastern stock, whether that too was involved. The letter of June 11 would indicate that a payment was to be made for some stock and the letter of June 17 simply encloses some certificates.

“Q. Have you, or Wake Development, any record which you could refer to which would indicate how the Trinidad stock was acquired by Hazelton and what price Hazelton paid for it.

“A. I think I can gather some records or information that will help.

“Q. Have you also some records which would indicate whether you paid a commission to anyone on that transaction? [421]

“A. Well, our bank records show how much money was received and whether any commission was paid. I can't pick it out of the correspondence.

“Q. Will you be good enough to check that when you get back to your office and let me know?

“A. Yes.

“Q. With respect to the question of whether that was a transfer or a purchase, could you tell that from the stock ledger and journal which are here in the office at the present time?

“A. No, I don't think so, but I am quite sure that this 300 shares was purchased because in my letter, or Miss Faulkner's letter, it says, 'We have been instructed to transfer to your name 300 shares of the Trinidad International,' and so forth. 'We are advised payment will be made for same within a few days, at which time delivery will be made to

(Deposition of Jacob Danziger.)

you.' It says, 'We are advised that payment will be made,' so I take it that it was a sale.

"Q. Who advised you the present would be made?

"A. I don't know, my dear friend, I don't remember the transaction in detail at all. I know we had some business with Hazelton and I know Hazelton had some stock transferred and that is why I was cautious in saying that I didn't know until I reviewed this correspondence [422] whether this was a sale or a transfer. The correspondence of later date in July relates to the transfer which I had in mind. In fact, he paid a transfer tax, a transfer charge.

"Mr. Mainland: For the record, Mr. Danziger has agreed to look up any records he has which will show the type of transaction giving rise to the delivery of 300 units of Trinidad stock to Dr. Hazelton, as well as the price paid by Hazelton, and whether or not there was a commission paid for the sale, and if so, to whom, and the amount of commission.

"I trust you won't get too impatient if I appear to be pressing on some of these things.

"The Witness: Not at all.

"Mr. Mainland: Because I feel that I have to exhaust your knowledge of the transactions.

"The Witness: You have been very courteous and very considerate, and I think very efficient in your endeavor to get at what you want to have and what you are entitled to have.

(Deposition of Jacob Danziger.)

“By Mr. Mainland:

“Q. Do you remember whether or not anyone ever claimed a commission on these transactions with Hazelton?

“A. Mr. Mainland, all I remember is that Dr. Hazelton got some stock and a man named Roberts figured in the transaction. That is all I remember excepting [423] what the correspondence tells me, which indicates that he bought some stock, paid some money for it or some money was to come for it from some source.

“Q. Do you remember how the contact was made with Hazelton?

“A. I don't unless the correspondence shows. May I ask you a question, Mr. Mainland?

“Q. Ask it and we will see.

“A. I wonder if there wasn't some correspondence with Hazelton prior to this time?

“Q. That is what I wonder.

“A. Wasn't there correspondence? I am just making a guess at it now. I am guessing that Hazelton had been a stockholder prior to the starting of this transaction in June, 1938. Now, we got—have we any stubs or stock books that will indicate the first date when Hazelton acquired some stock?

“Q. Here is what purports to be the stock and note ledger.

“A. It not only purports to be, that is what it is.

“Q. It will make the comment that that stock ledger and journal is incomplete in that the journal

(Deposition of Jacob Danziger.)

does not record all the certificates that were issued, neither does the ledger.

“A. You mean some certificates, some recent [424] certificates?

“Q. And some early certificates are now shown in the journal.

“A. Well, I won't subscribe to that. Well, apparently the first certificate of stock was issued to Dr. Hazelton in June 22, 1938, and that would indicate that he was not a stockholder at the time this transaction started. The transaction with him, or the business with him, seems to open in a different way than the general business.

“Q. It occurs to me also that that is true.

“A. That is why I wondered whether he wasn't already a stockholder.

“Q. While you are looking up the other things that you have agreed to, would you also look up to see if you can find some additional correspondence prior to the letter of June 11?

“A. I will make that a special point but I am very sure, Mr. Mainland, that when you finally ask for correspondence back of two years, that I gave you all of the files that we had and unless there was something in one of these files that you didn't pull out, there isn't anything left.

“Q. It is possible I overlooked it.

“A. I don't think that you overlooked it. It isn't very likely in your case. I will say if I can find [425] anything further about Hazelton I will be very happy to bring it to you. However, I

(Deposition of Jacob Danziger.)

needn't suggest to you that you can probably find it out from Hazelton.

"Q. Hazelton is a long ways from here and it is a little hard to have him supply something.

"A. If I am not able to supply something that exists there is another way of your finding it and I am not presuming to tell you how to go about your business at all.

"Q. It is now 11:10. Suppose we recess for five minutes.

"(A short recess was taken.)

"By Mr. Mainland:

"Q. Shall we resume?

"On Exhibit 1-C, the letter to Hazelton, dated March 7, 1940, in the lower left-hand corner the stenograpuhler's initial is given as 'B'. Who is that?

"A. We had a woman named Barager. That was one of the employees that we have had since Mrs. Faulkner's death.

"Q. To the best of your recollection you dictated that letter to Mrs. Barager?

"A. Yes, that was dictated. To my best recollection it was dictated to Mrs. Barager. I am positive it was dictated to someone because I never wrote a letter myself and never put an insignia in the lower corner.

"Q. When did Mrs. Barager leave your employ? [426]

"A. Oh, some five or six months ago.

"Q. In December, 1940?

"A. Well, I am guessing. She was ill and she

(Deposition of Jacob Danziger.)

took a leave of absence for a while and it is my guess that she was to come back around the first of January. Then she came in and asked for further time and we kept on the girl who took her place. Then she finally said she wasn't coming back, she was going to go away and we kept the girl on and we still have her successor, Miss Lucas.

"Q. Do you have Mrs. Barager's address?

"A. No. But I think we have it in the office. She has a son in the army or navy, or something, and Mr. Andrews told me that she had told him that she was going to Honolulu when she finally made up her mind that she wasn't coming back.

"Q. Is it your understanding that Mrs. Barager is now in Honolulu? A. Yes.

"Q. Several times during the course of this examination in response to my questions you have stated that the stock of Trinidad as well as the notes are not and were not at any time listed on any stock exchange? A. I so stated.

"Q. If any salesman or agent or eastern representative or contact man made such a representation to a member of the public, that representation was false, was [427] it not?

"A. It was false and it was made without any authority or permission of any character.

"Q. Likewise any representations as to what the market value was at a particular time on some Exchange would have been false, would it not?

"A. Yes, unless you might call what I call over-the-counter sales as being Exchange sales. There

(Deposition of Jacob Danziger.)

were sales that took place by a salesman selling to a purchaser at a price that I called over-the-counter.

“Q. Would that be in connection with the Stock Exchange?

“A. No, there wasn't any connection with the Stock Exchange whatever and there never has been any Stock Exchange listing. We have never even attempted to list it and we have made no statement that it was ever listed any place or authorized anyone to make one. In fact, we have always made the statement whenever an inquiry was made of us that it was not listed any place.

“Q. If a representation were made to the effect that Trinidad had production on its leases in Trinidad, would that be false?

“A. Well, if you mean by ‘production,’ if they meant were they producing oil and selling it, it would not be true. I will have to differentiate because the company did have and still has on its property a well that [428] is flowing some oil.

“Q. What is the company doing with the oil?

“A. It is not being gathered; it is——

“Q. It is being collected in sumps?

“A. My understanding is that the landowners—the company only owns the oil rights on the piece of land, or rather our predecessors, Hill, Gaskin, and Allahar, owned the oil rights on the land, the service rights belonging to somebody else, and I have been informed that the fee owner gathers the production largely to keep it from getting into his sugar field or sugar cane field or something of that char-

(Deposition of Jacob Danziger.)

acter. I have so been informed by Mr. Gaskin or Mr. Hill, or both.

“Q. The company has had no paid representatives in the Island of Trinidad at any time in recent years, has it?

“A. Well, we have had an attorney there who did some title investigating for us.

“Q. When was that work done?

“A. It must have been in '37 when I was in London. I will put it that way.

“Q. From your long experience in the oil business, you don't consider that a company has production if there is a well on property that is seeping a little oil, do you? [429]

“A. Well, it depends a good deal on the context of the word 'production.' I could say that a piece of property had evidences of petroleum or had production if there were a well on it that was producing oil showing that it wasn't a dry hole. Yet again, we sometimes speak of production as a quantity of oil that is producing and put in tanks and marketed.

“Q. What you ordinarily understand by the expression 'a well went on production'.

“A. Well, a well goes on production when it starts to put oil into the tanks that you finally sell, a well of the character of the well on this property is not on production.

“Q. The company has never sold a dime's worth of oil from the lease in Trinidad?

“A. It has never sold any oil.

“Q. Would the company have the right to go in

(Deposition of Jacob Danziger.)

and take the oil that is oozing out of that well, that is reported to be on the property, and sell that oil?

“A. I think they would have the legal right to.

“Q. Why doesn't the company do it?

“A. It would involve the building of an organization. It would, I think, technically start our rentals to run, which I would be very careful to see didn't happen. It would not be good business. It would not be profitable business to do so. [430]

“Q. Do you know of any quotations or market bids for Trinidad stock or notes aside from the transactions which you have had with persons who purchased stock directly from Wake?

“A. Yes, except those sales that have been made in London that were not sales——

“Q. Those were all made years ago, were they not?

“A. Yes. I don't know of any sales other than the Wake sales since '37.

“Q. Do you know of any bonafide quotations for the stock independently published by brokers or dealers? A. You mean at any time?

“Q. Yes.

“A. My recollection is that when Carman first started his selling campaign, that was the first month or two after the contract was made, that he had some broker making a bid or asked for an offer or something of that character.

“Q. Carman arranged with some broker to make a market?

(Deposition of Jacob Danziger.)

“A. That is my remembrance that he had some broker.

“Q. Was it a Canadian broker?

“A. I don’t think so. I think it was someone in New York.

“Q. Have you at any time been responsible for [431] putting quotations in a newspaper?

“A. I have not been responsible. I think I know to what you are referring.

“Q. Of quotations appearing in newspapers?

“A. I don’t know of any of my own knowledge, by having seen any, but in a transaction that I had in London with the firm there before the so-called Nicholson arrangement was made, an arrangement was had there with—I forget the name of it, some firm, who had some Canadian contact, and my impression is that we sent some stock to some Canadian broker in Canada and that they were using that for some market transactions.

“Q. That was several years ago, was it not?

“A. Yes. It was all while I was in London.

“Q. Let’s not go into that.

“A. You didn’t define years so I ventured off into something that I had knowledge of.

“Q. Is there a stock listed on the London Stock Exchange that has a name similar to Trinidad International Petroleum, Ltd.?

“A. There are quite a lot of Trinidad stock with the name of Trinidad in their names that are listed in London. As to whether you classify them as similar or not, I don’t know about that. I can think

(Deposition of Jacob Danziger.)

of three or four companies with the word 'Trinidad' in their [432] corporate name that are listed in London.

"Q. You were in no way connected with the Golden Quebec Mines, were you? A. No.

"Q. Were you acquainted with any of the officers or directors of that company?

"A. No, sir.

"Q. Have you ever had a list or a partial list of Golden Quebec stockholders? A. Never.

"Q. Who had that list?

"A. I don't know. My recollection is that Winslow mentioned that to me, that he had a couple of mining concerns and he wanted to know if the same basis would hold good, and I gathered from that he may have had some lists.

"Q. In connection with your deal with Winslow, which you described here, did you agree to pay him a commission on any sales of Trinidad stock he made to Golden Quebec stockholders?

"A. No. We had no agreement of that character.

"Q. I show you a letter on the letterhead of Wake Development Company dated November 13, 1939, addressed to Mrs. Florence S. Lawyer, 30 O'dell Avenue, Yonkers, New York, and signed 'J. M. Danziger, president'. Did you write that letter?

"A. I did."

Mr. Lucas: At this point, may I enter this letter in evidence as a government's exhibit, and ask that

(Deposition of Jacob Danziger.)

it be made a part of Exhibit 56, the same being the Danziger file that we introduced yesterday.

The Court: We will take ten minutes now, and we will take ten minutes again at 4:00 o'clock.

(A short recess was taken.)

Mr. Lucas: I offer this letter, identified by the witness Danziger in the testimony being read, as a part of Government's Exhibit No. 56, introduced in evidence yesterday, that exhibit being taken from the office of Wake by Mr. Danziger and delivered to the Commission, and I think it appropriate that this letter be made a part of it.

Mr. Rose: Your Honor, I am objecting to the communication, series of communications, upon the ground sought to proffer these various documents as evidence in support of the specific count set up in the indictment, and for that reason it denies the foundational facts and circumstances surrounding the transaction in its incipient stages, and deprives us of the right to be confronted by the witnesses. I particularly urge my objection on the further ground that it affirmatively appears, insofar as the act in this transaction of any defendant now on trial, there are two letters specifically—I haven't read them all—one dated March 16, 1939, antecedent to that, which expressly states a disinclination to trade with this lady or turn [434] over any stock to her, and calling her attention to the highly speculative value of the security, repudiating the representations of any brokers that may have approached her, and another letter of April 1st. I call your

(Deposition of Jacob Danziger.)

Honor's attention to these documents. I, therefore, submit that the matter is immaterial.

The only purpose it could even possibly have your Honor, is as evidence in support of a count. Those letters, if you read them, expressly refuse to have any transactions with that old lady, and puts her on guard against any representations that may have been made, and definitely turns down the proposed transaction.

Now, apparently counsel has in mind, and I am assuming this in view of some question propounded by the court to opposing counsel, that notwithstanding what is shown by that file, he offers it not as evidence of what it says or reflects, but apparently he has a theory in mind that he is going to call Mr. Carter here as a witness, as he has indicated, and attempt to bind us by his hearsay and self-serving declarations with matters that are not set up by this file. And as such it is incompetent.

The Court: Mr. Rose, I have let you and Mr. Lucas do most of the talking, and I expect to do that, but I don't like any serious error to arise by my silence. The remark you just made calls on me to say this to you: That if you mean under the law of evidence Carter can't take the witness stand and testify that he was Defendant Danziger's agent, [435] you and I are in complete disagreement.

Mr. Rose: As I understand the law, and I can cite ample authority, you can't establish agency by the declarations of the purported agents.

The Court: That isn't what I am talking about.

(Deposition of Jacob Danziger.)

I am talking about Carter taking the stand and saying Danziger employed him as an agent. There isn't any law that I ever heard of that says agency can't be established that way. There is law that Mainland can't take the stand and say, "Carter told me that he was Danziger's agent." That is the declaration of the purported agent that can't be used to establish agency.

I thought I would just tell you that now, so you won't be taken by surprise when the time comes.

Do you want to say something about this?

Mr. Lucas: We offer that at this time because that is the letter that was shown the witness, and which he said he wrote him, in this testimony. He had that letter in front of him, together with the envelope that is attached to it.

The Court: Mr. Rose says this is not an incriminating file, anyway; that this shows good faith and good intentions.

Mr. Lucas: That file is already in evidence. And I want to make this comment: That that is covered in the indictment. It is specifically alleged in this indictment that these people conspired and conceived this scheme together, and that part of it was that they would make [436] believe to these victims that they were reluctant.

The Court: Are you going to offer testimony to support that theory?

Mr. Lucas. Not the testimony of that particular witness; but we expect Mr. Carter to testify in that regard, and we do not hold that oral testimony is

(Deposition of Jacob Danziger.)

the only way that it may be proven. We say that when your Honor reads that, we believe he will come to that conclusion.

The Court: Do you expect to have oral testimony that this was a build-up, an appearance of reluctance that was feigned?

Mr. Lucas: We will not swear a witness, because the only person who could swear to that would be, I take it, Miss Lawyer. That is a conclusion or deduction that the mind must make from the testimony.

The Court: You mean from the correspondence?

Mr. Lucas: Yes. And we will have Mr. Carter here, who I believe handled that transaction for the conspirators, and we will offer his testimony on it.

The Court: What will he say?

Mr. Lucas: I will have to say to your Honor, candidly, I can't recall that I have personally discussed this Lawyer transaction with him.

The Court: What will he say as to similar instances?

Mr. Lucas: I wouldn't attempt to tell your Honor.

The Court: Will he say this was part of a build-up? [437] That is your theory?

Mr. Lucas: That is my theory, that he will. Not having discussed the particular Lawyer transaction with him, I wouldn't want to hold that out to the court.

(Deposition of Jacob Danziger.)

"A. Yes. The letter of May 8 says that we acknowledge receipt of her letter of May 3 and the enclosure of 700 shares of Golden Quebec stock and the check in the sum of \$390; and 111-3/7 shares of Trinidad and the same number of notes were forwarded to her."

Mr. Lucas: At this point, if the court please, we offer in evidence, as part of Exhibit 56, the letter of May 8, 1938, and the envelope which it was mailed in.

Mr. Rose: Will you let me see that? I thought you offered the entire file.

Mr. Lucas: No. We only offered that which we got from Mr. Danziger.

Mr. Rose: Isn't this letter in there?

Mr. Lucas: A copy of that letter you just saw. This is the original letter which was sent to Mrs. Lawyer, and obviously the original wouldn't be with Mr. Danziger. [440]

Mr. Rose: Well, I thought when you put in the file, that you were putting in the record of the correspondence.

Mr. Lucas: No. I very carefully limited it to what the witness told us from the stand. We were introducing that which he received from Mr. Danziger, and that was the basis of the introduction. Because we couldn't put this in under that kind of foundation.

The Court: Admitted.

Mr. Rose: That letter is already in evidence, is it not?

(Deposition of Jacob Danziger.)

Mr. Lucas: The carbon copy of that letter; but not the letter as sent through the mail, as it is there. I am now offering the original.

Mr. Rose: Frankly, your Honor, I don't get the theory here at all.

The Court: When did Miss Faulkner die?

Mr. Lucas: September 1939, your Honor.

Mr. Rose: September 1939. I take it, your Honor, that this letter is already in evidence?

The Court: A copy of it.

Mr. Rose: That is what I mean. There was no objection based on the ground that it was a copy. I don't know why this is being offered. Does that open the whole thing, at all?

The Court: You don't suppose that had anything to do with the use of the mails, do you? [441]

Mr. Rose: The presumption there, your Honor, from an evidentiary standpoint, is that when——

The Court: Where is the copy? In this file?

Mr. Lucas: Yes.

Mr. Rose: Your Honor will find it replies to another communication. Your Honor, it would be amazing to assume other than it was mailed. It says: "We acknowledge receipt of your letter." And the copy is the same thing.

The Court: The original is admitted. Attach it to the copy.

The Clerk: Part of Exhibit 56.

(The document referred to was marked as part of Government's Exhibit No. 56, and was received in evidence.)

(Deposition of Jacob Danziger.)

(Thereupon, counsel continued reading as follows:)

“Q. The transaction was in May, 1939?

“A. Yes.

“Q. That constituted the exercise by Mrs. Lawyer of the rights attaching to her Golden Quebec Mine stock, isn't that correct?

“A. Well, I just don't know how you would use that word 'rights', Mr. Mainland. There is some chain of correspondence that preceded that transaction that was closed on that date. I think it clearly outlines the transaction. I don't want to interpret it as a right with a capital 'R', as we understand it in common stock parlance. [442]

“Q. At any rate, during the short time just before May 8, 1939, there was an interchange of correspondence between Wake and Mrs. Lawyer?

“A. There was.

“Q. In which Mrs. Lawyer exhibited a determined interest in purchasing shares and notes of Trinidad International Petroleum, in the course of which she was to surrender stock which she owned in Golden Quebec Mines?

“A. Yes, that is correct.

“Q. Did she surrender Golden Quebec Mines stock and then pay \$390 on or about May 8, 1939?

“A. That is right.

“Q. And that thereafter she was mailed stocks and notes of Trinidad?

“A. That is the transaction as reflected by the correspondence.”

(Deposition of Jacob Danziger.)

Mr. Lucas: I now, at this time, offer in evidence the original letter of Wake Development Company, dated May 18, 1939, to Mrs. Lawyer, together with the envelope in which the letter was mailed, together, also, with a certificate of stock of Trinidad International Petroleum, Ltd., being No. C 209 for one-hundred eleven and three-sevenths shares of stock, and also certificate of Trinidad International Petroleum, Ltd. profit-sharing notes, serial No. C 125 for one hundred eleven and three-sevenths units. [443]

The Court: Where did you get it?

Mr. Lucas: From Mrs. Lawyer.

The Court: How are you going to prove its identity?

Mr. Lucas: By the testimony just read into the record.

The Court: Is that the exhibit——

Mr. Lucas: That is the exhibit that he says, right here——

The Court: Is that the one Mr. Mainland showed him at the time?

Mr. Lucas: Yes. The additional letter that has been introduced refers to another one, and so on, and he says that transaction is reflected by the correspondence.

The Court: Did Mr. Mainland have this bunch of documents you have just described in his possession at the time?

Mr. Lucas: Yes. Now that your Honor pins me right down to the point, maybe this doesn't show

(Deposition of Jacob Danziger.)

that he did show it to him at the time. The witness spoke of it and says that is the transaction. "Thereafter she was mailed stocks and notes of Trinidad?"

The Court: How do we know this is the letter?

Mr. Lucas: "A. That is the transaction as reflected by the correspondence." I see what your Honor means. He may have been referring to his own correspondence.

The Court: Unless Mainland had it right at the time and showed it to him, and is prepared to tell us now this was the one, its identification is incomplete. [444]

Mr. Lucas: I ask at this time that it be marked for identification. I will pursue it a little further. I may have been too precipitant at this point, your Honor, and if I was I am very sorry.

The Court: It may be marked.

The Clerk: No. 83, for identification.

(The document referred to was marked as Government's Exhibit No. 83, for identification.)

(Thereupon, counsel continued reading as follows:)

"Q. Now, the additional letter, which has been introduced as Commission's Exhibit No. 2, refers to another 1500 shares of Golden Quebec Mining stock? A. It does.

"Q. And Exhibit 2 contains an offer by Wake to Mrs. Lawyer; does it not?

"A. Yes, you would call it an offer.

(Deposition of Jacob Danziger.)

“Q. An offer to exchange 278-4/7 shares of stock and the same number of preferential profit-sharing notes of Trinidad for her 1500 shares of Golden Quebec Mines, Ltd., and cash payment by her of \$975?

“A. I think that is the substance of the paragraph in the letter that you are reading.

“Q. At whose instance was this offer made?

“A. I haven't any recollection of the transaction excepting what appears here in the correspondence. What is the letter from her to which this is a response? [445]

“Q. That wasn't given to me.

“A. Is there anything there?

“Q. No. A. From her?

“Q. Nothing from her.

“A. Or anybody else?

“Q. Subsequent to May 21, 1939, no.

“A. Oh, wasn't this letter in that file?

“Q. Exhibit 2 is an original letter obtained by us from Mrs. Lawyer.

“A. It isn't from this file here?

“Q. No.

“A. I just assumed that it was part of this file here. Was there some question?

“Mr. Mainland: Read the question.

“(Whereupon the record was read as follows:

“Q. At whose instance was this offer made?”)

“The Witness: I presume that it was made at our own instance, if we made it here, and if there is no correspondence from her that indicates that

(Deposition of Jacob Danziger.)

she asked for it. I can't say that I know how it came about. I am asking you now for information. Does the record show it was ever complied with?

"By Mr. Mainland:

"Q. I have been unable to find it.

"A. Did she ever have transferred into her name [446] 278-4/7 shares? You have the certificate books here. You have the stubs.

"Q. I can't answer that.

"A. Well, may I look at the stubs to see whether the transaction was carried out?

"Q. Surely.

"A. It isn't one of the transactions that weren't entered in the ledger is it? You made the statement that there were some transactions that were not entered.

"Q. I didn't refer to this.

"A. I was just wondering.

"Q. What I want to know is whether or not, and I think you have answered it, and if you will answer it again, whether or not you know from whom you received the 1500 shares of Golden Quebec Mines stock which led you to believe that Mrs. Lawyer would be willing to subscribe to additional units of Trinidad stock.

"A. I haven't any independent recollection at all. In the correspondence I would guess that she had sent them in.

"Q. Does the file of correspondence indicate that Mrs. Lawyer ever replied to your letter of November 13, 1939?

(Deposition of Jacob Danziger.)

“A. Our file would indicate no letter from her subsequent to May 21, 1939.

“Q. When you failed to obtain a reply to your [447] letter of November 13, 1939, did you notify anyone that Mrs. Lawyer hadn't replied?

“A. I haven't any recollection of her not having replied or I have no independent recollection of this letter until you showed it to me.

“Q. This was an opportunity for you to obtain \$975; didn't you follow it up?

“A. I haven't any recollection of following it up. It may be that I did. From the fact that this November 13, 1939 letter was not in this file makes me wonder whether there isn't some other Lawyer file subsequent to May, 1939, that I did not find when I was getting out this correspondence for you.

“Q. That is possible.

“A. Because there is no reason in the world why this letter of November 13, 1939, why there should not be a carbon copy of it as there was with all the other correspondence, but if you wish I will look again and if there is anything involving Lawyer I will give it to you, although I went very very carefully through our files, but this is at a time not long after my sister's death. We hadn't got organized in our office and I wasn't handling the actual typing of the—the actual typing that I did subsequently with most of this business.

“Q. Did you have arrangements with anyone

(Deposition of Jacob Danziger.)

besides [448] Winslow to offer Trinidad stock to Golden Quebec stockholders?

“A. My recollection is that he is the one who said he had the Golden Quebec, or he said he had a couple of mining companies, the names came in afterwards.

“Q. Did Carman know about that arrangement?

“A. I don't think so, he may have. He was with Winslow the first day and Winslow came back the second day. My recollection is, I am not positive on it, that Winslow spoke of the Golden Quebec the second day, or the mining deals, two mining deals, that was the way it was described. Now, whether he did that in the presence of Carman, I am not positive, and in answer to your question whether he knew of it, he may have known all about it and yet not have been present when the matter was discussed.

“Q. Did you not have any arrangement with Carman in connection with Golden Quebec?

“A. No, I never heard of Carman—my memory is that Carman never mentioned Golden Quebec.

“Q. At the present time, have you set aside or caused to be set aside any commissions to be paid on the sale to Mrs. Lawyer or any other purchasers of Trinidad stock? A. No, sir.

“Q. Did you receive a claim for a commission on the [449] sale to Mrs. Lawyer?

“A. No, sir. Well, now, can I look at that Lawyer file again?

(Deposition of Jacob Danziger.)

“Q. Yes.

“A. I don’t think there was any. I went through it a while ago but I didn’t read it, Mr. Mainland; I just didn’t read it all. I do remember the general circumstances.

“No, I am sure that no commission was paid or any claim made by anybody.

“Q. With reference again to the letter of November 13, 1939, it is apparent that 1500 shares of Golden Quebec were received either from Mrs. Lawyer or for her account and that the letter was not replied to by Mrs. Lawyer.

“What disposition did you make of the 1500 shares of Golden Quebec stock which were sent in on her behalf?

“A. I haven’t any independent recollection of it but we undoubtedly received it because we acknowledged receipt of it. In all probability we have the stock. If you want me to search the files to see if we have it I will be very glad to do it.

“Q. All right.

“A. If we have it and you want it I will do so.

“Q. Yes, please. [450]

“A. Now, what was it particularly that I was to hunt up on Hazleton?

“Q. This is off the record.

“(Discussion outside the record).

“By Mr. Mainland:

“Q. Now, on the record. Just briefly, one more thing in connection with Mrs. Lawyer: In the carbon copy of your letter of March 16, 1939 to Mrs.

(Deposition of Jacob Danziger.)

Lawyer you indicate a reluctance to sell Trinidad stock to her if she contemplates reselling.

“A. I have read the letter.

“Q. Was the statement I just made an accurate one? A. Well, your statement is that——

“Q. You exhibited reluctance to sell to her Trinidad stock if she contemplated immediately reselling the stock?

“A. Yes, but that was in response to a statement in her letter that she had been approached by somebody who had said something about resale. She had indicated in her letter of March 9, that someone had asked her if she was willing to sell her Trinidad notes received in exchange for Golden Quebec stock, and I gathered from that letter that somebody was making some offer of purchase, as we had been informed on some of the other occasions.

“Q. Did you have reason to believe that an offer [451] to Mrs. Lawyer to purchase any Trinidad stock or notes she might acquire would in fact be not bonafide?

“A. Yes. I had had at that time, if I remember correctly some evidence from some other stockholder, either who had made a purchase or contemplated a purchase, that somebody was making some offer of repurchase and I had nothing to do with that kind of business and didn't want anything to do with it.

“Q. What would be wrong with a person accepting an offer to sell her securities at a profit?

(Deposition of Jacob Danziger.)

“A. Well, if the individual who was making the offer was making a bonafide bid with the intention to make a purchase, of course, there would be nothing wrong about it, but somebody had given me information in correspondence that somebody”——

Mr. Rose: The second word in the second line from the bottom should be “Somebody had sold them some stock”, I believe.

Mr. Lucas: Yes.

(Thereupon, counsel continued reading as follows:)

“had sold them some stock or had propositioned them to write in for some stock and had said they were going to buy it and then they didn’t buy it and didn’t come around for it.

“Q. As a matter of fact, isn’t that exactly what Winslow and Carman were undertaking to do?

“A. No, I have no knowledge of Winslow or Carman ever making any offer of repurchasing the customer’s stock that he was getting in this exchange and the Great Eastern.

“Q. I think you misunderstood me. Wasn’t it true that what Carman and Winslow undertook to do was to call on the holders of Great Eastern and/or Golden Quebec and suggest to them that they write in to the company and subscribe?

“A. Yes, but I never heard of them offering to re-buy or to say to a stockholder, ‘We want to buy your Trinidad stock,’ but I had had some evidence from somebody at the time this Lawyer let-

(Deposition of Jacob Danziger.)

ter was written that somebody had made some such approach as that. When she stated in her letter that somebody had offered to buy her Trinidad stock, then, I figured whoever was doing it was doing the same thing and I Scotched it as best I could.

“Q. You testified that Carman had a list of Great Eastern stockholders? A. He did.

“Q. And you thought that Winslow had a list of Golden Quebec stockholders and perhaps holders of some other mining stocks?

“A. That is correct.

“Q. Didn't it occur to you that whoever called on [453] Mrs. Lawyer made the offer which you say you didn't think was bonafide, that that person had a list of stockholders also and might, as a matter of fact, be Carman or Winslow?”

Mr. Rose: I am going to object to this question on the ground that it is purely argumentative and calls for a conclusion and opinion of the witness.

The Court: He may answer.

(Thereupon, counsel continued reading as follows:)

“A. Well, I didn't think about it at the time but it has occurred to me now that in all probability whoever had a list of Golden Quebec stockholders must have been that person who called on this woman and I figured back Winslow or some associate or salesman in connection with him.

“Q. Do you know who was making those calls?

“A. No, I didn't know.

(Deposition of Jacob Danziger.)

“Q. Did you inquire?

“A. No, I asked very specifically in our form letter whether any representative of our company had ever called on her before to try to elicit some evidence as to who had called.

“Q. Implying the present person was the first one representing your company who had called?

“A. Well, I wanted to know whether anybody had called before that.

“Q. You mean before Carman or Winslow?”

Mr. Rose: I submit that question is argumentative and calls for the opinion and conclusion of the witness.

The Court: He may answer.

(Thereupon, counsel continued reading as follows:)

“A. Before whoever was calling at that particular time.

“Q. By the way, on that letter of March 6, what is the meaning of the initials at the bottom of the page in red?

“A. There is something in my sister’s handwriting.

“Q. Is that a code your sister used?

“A. Maybe it is a code of some character, whether it is something——

“Q. Do you know the code? A. No.

“Q. Could you tell me what that means?

“A. No, I haven’t the faintest idea what it means. I know she marked lots of things in her

(Deposition of Jacob Danziger.)

own way and I have no way of interpreting the details.

“Q. Before accepting the 300——

“A. This file is getting busted up here and I don’t want to be responsible for it.

“Q. That is all right.

“Before accepting the \$390 from Mrs. Lawyer, you knew that Mrs. Lawyer was a widow, an elderly widow who didn’t have very much money, didn’t you? [455]

“A. I knew that from her statements, and I protested against her investing. I think that in all fairness, Mr. Mainland, that you ought to put into evidence the entire file and not just the isolated letter, although I haven’t any right to ask you to do that.

“Q. That is perfectly all right.

“A. I think that in view of my testimony concerning the transaction with her, that the whole correspondence ought to be in the record.

“Mr. Mainland: I will introduce this entire file as Commission’s Exhibit No. 3.”

Mr. Lucas: Based on the statement then and there made by Mr. Danziger, I now re-offer in evidence that letter which I asked the court to mark for identification, together with the stock certificates and the envelope, together with another letter on the letterhead of Wake Development Company dated March 6, 1939. And I now show the last letter to counsel.

Mr. Rose: We resist the offer on the ground

(Deposition of Jacob Danziger.)

that it is manifest that the documents now offered were not referred to in the matter traversed in this statement at the time.

The situation hasn't changed any since your Honor's ruling on that before.

He says the entire file, referring to the file then in the possession of Mr. Mainland, not of documents in the possession of some other party, and I resist it on that [456] ground.

Mr. Lucas: One further comment in support of the offer, your Honor. The last two documents I offered—I ask that the last one be marked for identification so that I may properly refer to it.

The Clerk: U. S. Exhibit 84, for identification.

(The document referred to was marked as Government's Exhibit No. 84, for identification.)

Mr. Lucas: A refer now to U. S. 83, for identification——

The Court: Were those marked as Commission's exhibits?

Mr. Lucas: No. But the Commission's exhibit that was referred to there, and the file Exhibit 56, already in evidence, contain what is admittedly by the witness whose testimony we are now reading carbon copies of each of these letters in that file. That was not true of the letter we got in a while ago.

The Court: You have got a missing link in your chain. I don't have anything to do but sit up here, you know, and make more trouble for both of you.

(Deposition of Jacob Danziger.)

Everybody in the court room knows that that letter was written by Wake Development Company, because it is their letterhead and it is signed either by Mr. Danziger, as president—I don't have it before me—or somebody, as secretary; but as a legal proposition it hasn't been so identified, as yet. If Mr. Mainland had marked it as a Commission exhibit so it had an identifying mark on it at the time, and he could get up here at this time [457] and say, "This is the file Mr. Danziger was talking about", O.K. But you will have to put him on here—you can do it right now if you want to—and if he has become sufficiently familiar with Mr. Danziger's signature and he says it is Mr. Danziger's signature and it is the usual form of letterhead that Wake was using, all right.

Mr. Rose: Just a second, your Honor. Your Honor and I might not be in accord or agreement on this particular situation, but I will tell the court what my view is. My view is that when that file of carbon copies of letters were introduced here and they say, "In reply to your letter", there is a presumption in evidence that people act normally, and when they say, "In reply to your telegram", they are talking about a telegram, and your Honor can assume a telegram was involved. I take the position, outside of the attached stock certificates, your Honor must conclude that these communications were sent through the mail, and that the statements therein contained were made at that time.

(Deposition of Jacob Danziger.)

Now, I want your Honor to know, as long as you have overruled my objection, I have no objection solely on that ground in respect to the original. But I will tell your Honor what I am standing on, and that is in my own mind the significance of the fact that these stock certificates that are sought to be introduced are the property of Mrs. Lawyer and they have never been returned or offered to be returned.

I don't want to take time to argue that. Now, if [458] counsel will stipulate that these stock certificates that are attached to these proposed exhibits are the property of Mrs. Lawyer, and she has never parted with the title or surrendered them, I have no objection. I want to be very frank with your Honor and let counsel know what I have in mind, so they don't think I am quibbling about it.

If you admit that is Mrs. Lawyer's property and that it still belongs to her, then I don't have any other objection.

Mr. Lucas: We will try to connect it up later, if your Honor please.

Mr. Rose: Counsel, I don't like to get in the habit of asking opposing counsel to do anything, but will you confer with Mr. Mainland and ask him if he got that from Mrs. Lawyer. And if he declares that for the record, we might clear it up right now.

Mr. Lucas: Mr. Mainland has been sworn as a witness; I will just ask him where he sits.

Did you get from Mrs. Lawyer Government's Exhibits 83 and 84, for identification, in the course of

(Deposition of Jacob Danziger.)

your investigation for the Securities and Exchange Commission?

Mr. Mainland: I did; and I had them in my possession at the time I took testimony from Mr. Danziger, but evidently did not introduce them in the record for his identification at the time.

Mr. Rose: Well, your Honor, with the fact in the record that he procured that from Mrs. Lawyer, there are no other technical objections to these communications and the stock.

Mr. Lucas: Then I will re-offer them and ask that they be admitted and made a part of Exhibit 56, so that the entire Lawyer file will be in as one exhibit.

The Court: They are admitted.

(The documents referred to, previously marked for identification as Government's Exhibits Nos. 83 and 84, were received in evidence as part of Government's Exhibit No. 56.)

(Thereupon, counsel continued reading as follows:)

"Q. We have a long way to go. Would you prefer to try to finish it up this afternoon? I will probably take as much time again as we have taken this morning.

"A. I would like awfully well to get some time in my office today. And I don't generally come in on Saturdays and I have got some things I would like to clean up. If it doesn't disorganize your schedule I would rather put it off to some day early in the week.

(Deposition of Jacob Danziger.)

“Q. Would Monday afternoon at 1:30 be convenient to you?

“A. Yes. That will be all right.

“Q. Very well. 1:30 Monday afternoon.

“A. Yes.

“Mr. Mainland: We will recess until Monday afternoon at 1:30. That will be on June 9th.”

“Proceedings. Whereupon, Jacob Danzinger, was recalled as a witness for and on behalf of the Commission, and having been previously duly sworn, was further examined and testified as follows:”

The Court: What is that recital based on, that he was called for and on behalf of the Commission?

Mr. Lucas: What is the recital based on?

The Court: What is that based on? He was being examined as an adverse witness.

Mr. Lucas: Section 9 b of the Act, your Honor, which we referred to the other day in the U. S. Code Annotated. I believe it is 77s, sub-section (b). Does your Honor desire me to read it for him?

The Court: I am just curious. Here is a man that is being investigated, with the prospect of criminal prosecution, and he is advised of his constitutional rights and doesn't assert them, and then the transcript asserts he is being called as a witness for and on behalf of the investigating Commission. That is a new wrinkle to me. I learn something nearly every day; not quite every day, but nearly every day.

Mr. Lucas: I would venture this, your Honor; I notice substantially the same language——

The Court: The F. B. I. might just as well, when

(Deposition of Jacob Danziger.)

they take the witness stand and read from one of their reports, as you know they always do, say that, "This defendant was [461] called on in the city jail in Los Angeles, and being advised of his constitutional rights and not having asserted them, was thereby examined as a witness by and on behalf of the government." I don't see any difference.

Mr. Lucas: I think this language is clearly the language of the stenographer.

The Court: All right.

Mr. Rose: I take issue with them that that is the language of the stenographer. These proceedings were denominated and were had in the matter of Trinidad International Petroleum, Ltd.

The Court: Go ahead.

Mr. Lucas: Shall I proceed, your Honor?

The Court: Yes.

(Thereupon, counsel continued reading as follows:)

"Direct Examination (Continued)

"By Mr. Mainland:

"Q. During the last year, that is, during the year 1940, including 1941 up to date, about how many sales of Trinidad has Wake made?

"A. I think there is two or three, Mr. Mainland. I can tell by looking at those stubs, but if that isn't according to the facts as you know them—well, my impression is there were two or three.

"Q. Could you tell us from the stubs of the stock certificates?

(Deposition of Jacob Danziger.)

“A. Oh, yes. I can tell you exactly, I think.

“Q. Here is a file of stubs which were not attached to a book, but are held together by an elastic band. (Handing document to witness.)

“A. Is this the current one? Maybe it is. Let me see. This is 1939. This is February, 1939. This is practically the first, I think, in that year.

“Q. I am talking about 1940 and 1941.

“A. I don't—let's put it this way: Three sales from all of 1940 and to 1941 to date.

“Q. You can tell that by reference to these stubs of stock certificates I hold in my hand?

“A. Yes, sir.

“Q. Do these stubs reflect the issuance of stock certificates covering all sales made during 1940 and 1941? A. They do.

“Mr. Mainland: I will introduce these stubs——

“The Witness: Would you just take those out? Of course, there were some of those that were transfers, so let me be sure you have what are sales. (The documents referred to were handed to the witness.) Yes, this number are all sales, represent certificates of all the sales made by Wake Development Company of any of its stock for that period.

“Of course, there were other sales made that were not transfer sales, were made right into the name of the buyer. [463]

“Mr. Mainland: I will introduce these as Commission's Exhibit No. 4.

“(The check stubs referred to above were

(Deposition of Jacob Danziger.)

made Commisison's Exhibit No. 4 and were received in evidence.)

“By Mr. Mainland:

“Q. The names of the purchasers, as disclosed by these stubs, are Dr. J. Arthur Hazelton——

“A. Now, I may correct that for you. Wasn't that Hazelton certificate a transfer from Roberts? Doesn't it show on its face? It just occurs to me right now. (The documents referred to were handed to the witness.) No, that was not a sale. There were two sales. That was a transfer of a certificate in Roberts' name that was sent in.

“Mr. Mainland: Mr. Danziger has just qualified his previous statement, in that the stub of certificate No. C-216, showing the issuance of 100 shares to Dr. J. Arthur Hazelton represents a transfer of stock from the name of A. L. Roberts and not a sale.

“By Mr. Mainland:

“Q. Is that correct, Mr. Danziger?

“A. That is correct, Mr. Mainland.

“Q. Then the purchasing persons, as shown by Commission's Exhibit 4, were Elizabeth Parsons and W. E. Edwards?

“A. Let me have those again. [464]

“(The documents referred to were handed to the witness.)

“The Witness: My impression is that that Edwards was a transfer too. I would have to—it doesn't show on the stub. I would have to get back

(Deposition of Jacob Danziger.)

into the file to be very certain about that. I remember the Parsons transaction.

“Q. Do you recall the circumstances of the purchases by Parsons and Edwards, or by Parsons, if you later find that Edwards was a transfer rather than a purchase?

“A. Yes, I remember the transaction involving the stock issues to Parsons.

“Q. Would you mind giving me the details, as you remember them?

“A. Well, Mr. Harry Aronson, who I had some prior business with in prior years, involving Trinidad stock, and had a contact with its promotion, came to Los Angeles and I sold him some stock that he had put into that name.

“Q. The stub of Certificate No. C-217, showing issuance of 600 shares to Mrs. Parsons is dated May 11, 1940. Was it on or about May 11th that Mr. Aronson made this purchase from you?

“A. That is my impression of about when it was. I don't remember the exact date but I think the certificate was dated when it was issued. It was issued when the transaction took place. [465]

“Q. Did Mr. Aronson come in your office?

“A. Yes.

“Q. Do you recall the manner in which he paid for his stock?

“A. Well, he paid for it in money in some form. I mean it was—I don't remember whether it was Post Office order, or whether it was a bank draft.

(Deposition of Jacob Danziger.)

In fact, I can't remember the exact amount of it, but it was not paid in cash.

“Q. It was paid by check, or money order, or some draft?

“A. Yes, something of that character, because I would remember distinctly if it had been a cash transaction. I don't remember of ever having one of that character with him.

“Q. Do you remember the approximate amount of the consideration to Wake Development Company?

“A. Around five to six hundred dollars, I would estimate.

“Q. Approximately \$1.00 a share.

“A. Yes. That is the basis under which I did some business before with him, when he first started, and that is why I have the impression that that is the amount.

“Q. Did you pay him a commission for making this sale?

“A. No. I sold him some stock for a fixed sum, [466] and he paid for it, and had this——

“Q. Do you know the price which he charged Mrs. Parsons—— A. No.

“Q. ——assuming Mrs. Parsons was a customer of his?

“Q. I wouldn't have the faintest idea about it, Mr. Mainland. He didn't tell me anything about it at all.

“Q. You had formerly sold some stock through or to Harry Aronson, had you not?

(Deposition of Jacob Danziger.)

“A. Yes, I had.

“Q. That was prior to your trip to Europe, was it? A. Yes.

“Q. So that there was a lapse of several years in between the first set of transactions you had with Aronson and the transaction about which we are now talking.

“A. There was a lapse of that period in any sales with him, but there was not that lapse in my contact.

“Q. Did you have correspondence with him?

“A. Yes, I have had correspondence off and on with him ever since I first met him, and that was before the organization of the Trinidad International Company.

“Q. Did Aronson act as a sales representative of [467] the Wake Development Company between the dates of his first transactions and this most recent transaction?

“A. Well, he made a sale or made two sales, and I think attempted to make other sales for the Wake Development Company at some time during that period.

“Q. Was there any time during which he was not authorized to attempt to dispose of Trinidad stock for Wake?

“A. No. He had a right to make an offer, from the fact that I didn't withdraw one that I had made him when we first started. I mean to say, I would say he had an option or a right to come to us and ask us to fill an order if he made a sale.

(Deposition of Jacob Danziger.)

“Q. But when he came to you with such an order, did you insist on doing business with him as principal?

“A. No. In the sales, the two sales that he made, I think the money came—either he brought it or sent it, or the purchaser sent it, on a sale that he had made, and I think in the two sales that he made he was paid a commission.

“Q. I see.

“A. That is, the company collected from the buyer. Now, whether the buyer gave him the order without his check, and he brought it in, or whether it was sent in or not, I can't tell you, but I know he made two sales; one of them in Seattle, and one of them in New York City.

“Q. In other words, his first transactions were handled in a different manner than this last transaction? A. Yes.

“Q. Have you had any direct contact with the customer, Mrs. Parsons, yourself? A. No.

“Q. Was there any other salesman involved in the transaction?

“A. Well, it could possible be. I mean to say, Mr. Aronson could possibly have had some salesman intervening. I don't know his direct—whether his contact with the buyer was direct or through an intermediary. That I don't know. He didn't tell me.

“Q. Can you recall any details of this transfer of stock to the name of W. E. Edwards?

“A. I have an impression that it was a transfer.

(Deposition of Jacob Danziger.)

but I would have to get into those records, Mr. Mainland, before I could recall anything positive about it. How many shares were there? Do you remember?

“Q. No. There are three certificates.

“A. Three for one hundred each. I don’t remember. I would have to go back into it a little deeper than right as I sit here.

“Q. Would it be enough to see the stock transfer journal and ledger? [469]

“A. Well, let me look at it. It may tell me something. There is some data put on those—generally, the certificates should have the data where the stock came from. I would have to look and see whether it was transferred out of Wake. What is the number on that, may I ask?

“(The documents referred to were handed to the witness.)

“No. 218. I see my sheet of transfers out of Wake stop at C-214, and that doesn’t tell me whether it came out of—didn’t come out of that certificate. Now, let me see. That name is Edwards?

“Q. Yes.

“A. It doesn’t seem to be in the ledger.

“Q. May I interrupt just a minute?

“A. That doesn’t seem to be in the ledger at all.

“Q. May I interrupt just a minute, Mr. Danziger? A. Yes.

“Q. Would you mind refraining from talking out loud when you are just thinking, because we

(Deposition of Jacob Danziger.)

might get a lot of stuff in the record that doesn't have any real significance.

"A. I am awfully sorry. I don't want to encumber the record for you.

"Well, answering your question, in neither the journal nor the ledger, stock journal or stock [470] ledger, does it give me the cue on it, Mr. Mainland, because the Edwards transaction evidently isn't entered in either of them.

"Q. Have you any other records that might disclose more details about the transaction?

"A. I think I could find something that should give me a closer cue. The Wake Company should have some kind of a copy, if it was a transfer from Wake, or a sale by Wake, and if you wish, I will seek to see.

"Q. I would appreciate your making a note to see if you can find anything that will prod your memory on it.

"A. Give me those numbers again.

"Q. C-218, C-219 and C-220.

"A. And the date?

"Q. The date of issue, as shown by the stubs, was August 8, 1940.

"You said, did you not, that you had had no correspondence directly with Mrs. Parsons?

"A. No. I said I had not.

"Q. Several times during your testimony, Mr. Danziger, we have referred to the stock journal and stock ledger of the Trinidad International Petroleum, and I believe you have testified that

(Deposition of Jacob Danziger.)

These constituted the only record of transfers of Trinidad's securities. Therefore, I think it would be advisable to introduce [471] them as exhibits so that they will be a part of the record.

"A. All right. Will you keep them permanently, or would they be returned?

"Q. No. They will be returned to you as soon as the investigation is completed.

"A. That is agreeable, Mr. Mainland.

"Mr. Mainland: I will introduce the looseleaf book headed up 'Trinidad International Petroleum, Ltd., Stock and Note Ledger,' as Commission's Exhibit 5.

"(Looseleaf book referred to was marked Commission's Exhibit No. 5 and was received in evidence.)

"Mr. Mainland: I will introduce the looseleaf book headed up 'Trinidad International Petroleum, Ltd., Stock Journal, Temporary & B Certificates & C Certificates' as Commission's Exhibit No. 6.

"(Looseleaf book referred to was marked Commission's Exhibit No. 6 and was received in evidence.)

"Mr. Mainland: I will introduce a looseleaf book, headed up 'Trinidad International Petroleum, Ltd., Note Journal', as Commission's Exhibit No. 7.

"(Looseleaf book referred to was marked Commission's Exhibit No. 7 and was received in evidence.)

(Deposition of Jacob Danziger.)

“By Mr. Mainland:

“Q. Inserted between the pages of Commission’s Exhibit No. 5, there were two sheets to which were [472] attached certificates of Trinidad International Petroleum Ltd. Do these constitute a part of the transfer records?

“A. No. They are not a part of the records. They are really—they are Wake Development Company records which I compiled for the guidance of the secretary, to keep count of various transfers out of the Wake parent certificate, we might say. The Wake Company had one large certificate of stock, and it endorsed it and lodged it with the secretary, with a memorandum of the various transfers that should be charged against that certificate.

“Now, I don’t think these—well, you would have to judge whether it is a part of the corporate records or not, but it is there, and it may go with the records, if you want it to, for any reason, Mr. Mainland. I would think the Wake certificate, being that it is really cancelled and the issues are out of it, that it is a part of the transfer records.

“Mr. Mainland: I will introduce this single sheet of paper, to which is attached Cancelled Certificate No. 271 for 20,000 shares of Trinidad International Petroleum, Ltd., as Commission’s Exhibit No. 8.

“(Cancelled Certificate No. 271 was marked Commission’s Exhibit No. 8, and was received in evidence.)

(Deposition of Jacob Danziger.)

“Mr. Mainland: I will introduce this sheet of [473] paper, headed up with date October 7, 1939, and to which is attached an adding machine tape, a sheet of figures, and Certificate B-201 for 100,000 units of preferential profit-sharing notes of Trinidad International Petroleum, Ltd., as Commission’s Exhibit 9.

“(Sheet of paper dated Oct. 7, 1939, with adding machine tape referred to was marked Commission’s Exhibit No. 9 and was received in evidence.)

“By Mr. Mainland:

“Q. Now, I am showing you, Mr. Danziger, a file of correspondence, which you handed to me recently, between Wake Development Company and Miss Adeline B. Skinner. The file begins with a letter from Miss Skinner dated August 16, 1938,”—

Mr. Lucas: A check of the file and correspondence would indicate the true date. It should be ’39.

Mr. Rose: Yes.

(Thereupon, counsel continued reading as follows:)

—“and addressed to J. M. Danziger, Trinidad International Petroleum Company. In the letter she stated that she was the owner of 50 shares of great Eastern National Gas Company.

“Later in the letter she stated ‘In examining the records, please advise if I have or am the owner of more than 50 shares of G. E. Gas Company.’

“The file contains a carbon copy of a reply to

(Deposition of Jacob Danziger.)

[474] Miss Skinner dated August 18, 1939, and signed, apparently, by the secretary. In the letter the secretary stated 'So far in the examination of our records, they indicate that you are the holder of 100 shares of Great Eastern National Gas Company stock.'

"After one or two additional items of correspondence, there is a carbon copy of a letter addressed to Miss Skinner, dated September 12, 1939, and signed, apparently, by the president of Wake Development Company, in which the president stated, 'We have a record that you hold 100 shares of stock in your name.'

"Will you refer to the correspondence, and particularly to those parts that I have quoted.

"(Handing documents to witness.)

"A. Well, now, I have gone through the correspondence and you have some question you want to ask me?

"Q. Yes. Do you recall the transaction with Miss Skinner?

"A. Why, the correspondence recalls the transaction to me, yes.

"Q. Briefly, what was the transaction?

"A. Well, she bought 100 shares of Trinidad stock and 100 notes and paid \$300.00 in cash and sent us 50 shares of Great Eastern and made some affidavit that she had another 50 shares, which she had lost. [475]

"Q. You will note that in her first letter to you, Miss Skinner said she was the owner of 50

(Deposition of Jacob Danziger.)

shares and that in replying, both the secretary and you told Miss Skinner she owned 100 shares.

“A. Did she say that she owned another 50 in her first letter? Let me see.

“(The document referred to was handed to the witness.)

“Yes, in her first letter, she asked us if she was the owner of more than 50 shares.

“Q. Did the secretary write to Miss Skinner under your instructions?

“A. Well, under general instructions, she was handling the routine of this business in the office and I dare say——

“Q. Miss Skinner’s original letter was addressed to you?

“A. Yes, I noticed that, and I might remark parenthetically that it strikes me rather odd because all of those inquiries came addressed to the company, and I was just curious, wondering where my name figured in the matter. After the first letter, I may have replied as letters came frequently addressed to me, but that is the first letter, apparently. There may have been others, but it strikes me rather odd that the first letter should be addressed to me and not to the [476] company. But that is beside the point.

“The reply there, that carbon, was written by Mrs. Faulkner, not by myself, nor was it dictated by me, and I know that for two reasons. First, it does not have my initials in the corner as being

(Deposition of Jacob Danziger.)

dictated. The second is, it has some red ink letter. That is my sister's handwriting.

"I wrote none of the correspondence. I may have signed that letter of September 12th, but it was composed by Mrs. Faulkner, because it was not dictated by me. It has no insignia on it.

"Q. Did you sign the letter?

"A. The carbon gives evidence that it called for the signature of the president, and I was the president. Now, Mrs. Faulkner may have signed it in my behalf as president. She had plenty of authority to do that. Or I may have signed it. I can't tell which from the carbon.

"Q. Can you tell me what record you had available, which would enable you to determine whether Miss Skinner had 100 shares or only 50 shares of Great Eastern?

"A. Either myself or Mrs. Faulkner could only get that information from a questionnaire. You will remember that originally, when the deal was started, they sent out a questionnaire over the name of the Trinidad International Company, a printed questionnaire, [477] and that questionnaire came back to our office, and that is the first evidence that the office had as to who was a stock holder, or how many shares they owned."

The Court: I guess it is time for a recess. Do you want ten minutes?

Mr. Lucas: Yes, I would appreciate a few minutes, if your Honor please.

(A short recess was taken.)

(Deposition of Jacob Danziger.)

Mr. Rose: Do I have your Honor's permission to address the court? Your Honor indicated yesterday afternoon that your Honor's intention was to hold a session tomorrow. As your Honor knows from some of the preliminary matters submitted here, I was obliged to start this trial here with a great number of exhibits that were handed to me virtually the morning of the trial, and obviously I didn't anticipate that we were going to have the Saturday session, and I have a group of appointments for tomorrow, and tomorrow will be the only day that I know of that I will be able to get any work done. I have an unlawful detainer action in the office and things of that kind. Of course, I realize from what your Honor has said that he is anxious that we go ahead with dispatch here, and I am going to do the best I can to cooperate——

The Court: Can't you work tomorrow morning here?

Mr. Rose: If we can get away at noon, that wouldn't be bad; we can make some arrangements.

The Court: 9 to 12.

Mr. Lucas: Very well, your Honor.

(Thereupon, counsel continued reading as follows:)

“Now, my guess would be that Mrs. Faulkner checked either a list of the questionnaires—I don't think she kept them because they all went back to the Great Eastern, but she probably had a list of questionnaire returns, which would have opposite the name the number of shares, and that is the only

(Deposition of Jacob Danziger.)

way she could have gotten that information. But we never had a list, Mr. Mainland. I never had a list of the stockholders.

“Q. Are you sure that either Mrs. Faulkner or you did not receive that information from a salesman who was calling on Miss Skinner?

“A. Well, it is hard to say positively. It isn't very likely, because around that period I don't think we were hearing from salesmen.

“Once in a while—she must have had some communication from Winslow, or some others, because apparently from the correspondence there was evidence of some contact but I wouldn't say positively yes or no, that she had or hadn't had, or if I had had, it would very likely be that that correspondence would be in this file.

“I don't think my sister kept all of her mostly [479] handwritten letters from salesmen in the company file here. I think anything that my name went on, I think was generally kept in the file, and if I had to make a guess as to whether I had or had not, I would say I had not heard from any salesman in that connection.

“Q. Can you testify as to whether you paid a commission to a salesman on this particular transaction with Miss Skinner?

“A. On this particular transaction?

“Q. Yes.

“A. I can't testify from memory, but my impression is that there was no salesman's commis-

(Deposition of Jacob Danziger.)

sion paid to any salesman, paid after Winslow took over in '37, I think it was.

“Q. Do you know whether Winslow effected this transaction?

“A. No, I don't. His name doesn't apparently figure there in any fashion, and I don't connect him with that sale in any way.

“Q. You have testified from the correspondence that Miss Skinner invested \$300.00 in cash. I show you an original check dated September 12, 1939, and drawn to the order of Adeline B. Skinner for \$300.00 on the First National Bank of Farmingdale, New Jersey. Does that check represent the payment by Miss Skinner to Wake Development Company of the \$300.00 about [480] which you have testified?

“(Handing document to witness.)

“A. It does.

“Q. Can you tell from the endorsements when it was collected?

“A. Well, the check was dated September 12, 1939. The Wake Development Company endorsement to the Bank of America is on it but it is undated. It evidently was transmitted to the Federal Reserve Bank in New York, where it has an endorsement by the Federal Reserve Bank to pay to any bank or trust company, and that is dated September 16, 1939. It doesn't seem to have a date when it was paid, but it must have been paid after September 16, 1939, and probably within a day or so. You will notice the 'paid' stamp doesn't even have a date.

(Deposition of Jacob Danziger.)

“Q. Can you testify, either by reference to this check or from memory, whether Wake Development Company deposited this check or put it through for collection?

“A. Well, no. I think it must have deposited it, not put it through for collection, because when an item went through for collection, my memory is that we did not endorse it over to the bank. That is, that stamp is a rubber stamp. Now, maybe I am clear off my trolley. Is that——

“Mr. Mainland: Off the record. [481]

“(Discussion off the record.)

“The Witness: That is what I thought it was. It is our deposit stamp. That check, my belief is, was deposited to the credit of the Wake Development Company at the Bank of America.

“Well, this may be possible too: We might make this deposit with this rubber stamp, which is our deposit stamp, and it might have been credited to the company, and yet they put it through for collection. They have got to collect the check. There are some items that we have had where, for instance, it wouldn't be a cashier's check, and we might get a check made out to the company by somebody in the East. They would not take it at the deposit window and give us the credit for it, but they take it at the collection window, and when collected they deposited it to our account.

“Q. In such a case you would not draw against those funds until you were advised that the check would have been collected?

(Deposition of Jacob Danziger.)

“A. Exactly. We would not have been able to. They would not permit us to.

“Q. You are unable to testify in this case definitely how it was handled? Is that true?

“A. Positively. But I am most certain that this check was credited to our account on that day, because [482] those collection items don't generally have our rubber stamp 'Pay to the order of the Bank of America.'

“Q. What did Wake Development Company do with the proceeds of the check?

“A. Well, the proceeds went to the credit of the Wake Development Company. What it did to monies to its credit depends on when it was done. Frequently, we would pay some bills with it or if there was any considerable amount of cash that the company didn't check out immediately, a check would be drawn and I would give the money to Mrs. Danziger. She owned the company. She might pay her household bills with it. If she were in a position where her household bills were paid, she might keep it for our purposes in the future. But, generally speaking, the Wake Development Company paid out the bulk of its money received for capital sales to cash, which went to Mrs. Danziger.

“Q. Did any part of this \$300 go to a salesman?

“A. I am very sure it did not.

“Q. Did any part of it go to Carman?

“A. I am very sure it did not.

“Mr. Mainland: I will introduce this check as Commission's Exhibit No. 10.

(Deposition of Jacob Danziger.)

“(The check referred to above was marked Commission’s Exhibit No. 10, and was received in evidence.)

“Mr. Mainland: I will introduce the entire file of Miss Skinner’s correspondence as Commission’s [483] Exhibit No. 11.

“(The correspondence file above referred to was marked Commission’s Exhibit No. 11, and was received in evidence.)

“By Mr. Mainland:

“Q. Have you ever met Miss Skinner?

“A. No.

“Q. In September, 1939, did Trinidad have any assets whatever?

“A. Well, Trinidad has always had its properties located on the Island of Trinidad.

“Q. Did it have any assets other than its interests in those properties, whatever they might be?

“A. No. I don’t think the Trinidad Company, as a company, has had anything at any time excepting those properties in the Island of Trinidad.

“Q. I show you now a letter addressed to Trinidad International Petroleum, and signed by B. J. Lehmkuhl. The letter is undated. You will notice that at the top of the first page there is a penciled notation stating, ‘O. T. We have not answered this. Please instruct.’

“Can you tell me in whose handwriting that penciled notation is?

“A. That is my handwriting.

“Q. Is that your handwriting?

A. Yes.

(Deposition of Jacob Danziger.)

“Q. Are you positive? [484]

“A. It doesn't look unlike my sister's handwriting. She wrote a vertical hand. Well, I am not positive that it is my handwriting, but it looks very much like it, Mr. Mainland. What is the date of it?

“Q. It is undated.

“A. Oh, I see. Well, is there anything in it that gives us a cue as to when it might have been, because if it was subsequent to my sister's death, then I know it was my handwriting, or——

“Q. It wasn't subsequent to your sister's death. I think there is a way of getting closer to the date, but we will not go into that now.

“A. Well, it looks like my handwriting, but I don't generally write a vertical hand. My sister wrote a vertical hand.

“Q. I refer you to the lower left-hand corner of the first page, on which there is a pen and ink notation, ‘Over’, then, ‘O. T.’ and on the back page in pen and ink is the following: ‘Answer this fellow same as you did the Lima, Ohio fellow, brief and short & curt. O. T. Continue mail c/o Thomas & Kane, Phil.’

“Do you know whose handwriting that is?

“A. No, sir.

“Q. Do you know who O. T. is?

“A. No, I don't know. By the way, will you tell me what is that man's name there, the signature?

“Q. It looks like Lehmkuhl to me. Well, was O. T. a salesman?

“A. Well, my guess would be that he was some

(Deposition of Jacob Danziger.)

salesman that my sister had the correspondence with. The initials don't spell anything to me. I don't know anybody with that name or initials.

"Q. Didn't you know who the salesmen were who were out selling Trinidad stock?

"A. Yes.

"Q. Wasn't it a matter of some concern to you?

"A. No. How many men, or who they were, that any one of the people that I had dealt with at various times in the sale of this stock, was no particular concern to me, as to who the individual salesman was, how many there were, or where they were, and my sister carried on all that business; and she may have known something about them which I wouldn't know.

"Q. You testify that you have no idea of who O. T. might be?

"A. Other than he probably was a salesman.

"Q. Do you know that he was a salesman?

"A. Well, from the context of that——

"Q. But independently of the reference in this letter, have you ever heard of O. T. before?

"A. Yes, I have heard of O. T. before.

"Q. What significance would it have to you?

"A. Well, it is somebody connected with this Great Eastern-Trinidad deal.

"Q. The letter that we have just been looking at would indicate that an original inquiry came from a prospective purchaser of Trinidad stock and was forwarded to O. T. for suggestions as to how it should be answered, would it not?

(Deposition of Jacob Danziger.)

“A. Yes, if this can be called an inquiry, this document. This document evidently has been forwarded to somebody by mail named O. T.

“Q. Do you have any address for O. T.?

“A. I don't know—no, I don't know the name. I don't fill it out, and, consequently, I know that I don't know that I have the address. I may have, when I can identify him. Apparently, it was an address in care of somebody in Philadelphia.

“Q. Have you ever written to O. T.?

“A. Not to my knowledge. I may have. My sister may have brought in mail that I had to sign.

“Q. Did you ever receive a letter or a wire from O. T.? A. I might have.

“Q. Do you recall any instances?

“A. No, I don't, These salesmen would sometimes address me, sometimes personally. They might address the company or might address Mrs. Faulkner, and there [487] might have been letters, undoubtedly was some correspondence with somebody of that name.

“Q. The notation by O. T. refers to another person,— A. I noticed that.

“Q. —whom he describes as the Lima, Ohio fellow. Do you know who the Lima, Ohio, fellow would be?

“A. No, it doesn't spell anything to me.

“Q. Did your sister have your instructions to accept orders from O. T.?

“A. Well, she had general instructions to take orders from any of these salesmen that would write

(Deposition of Jacob Danziger.)

in and ask her to write a letter to somebody, or send a certificate collect, or anything of that character. I don't know that she had any particular orders to listen to somebody with the initials, O. T.

“Q. Since your sister's death, have you continued to accept instructions from O. T.?

“A. I have no recollection of any correspondence with anybody by that name.

“Q. Is there anyone who has any capacity with Wake Development,—

“A. Other than me?

“Q. Described as O. T.?

“A. If he is a salesman, as I gather that he is from the context of that letter, then he has a contact with the Wake Development Company, as a salesman under [488] the off-shoot of the original arrangement with Great Eastern.

“Q. How does he get his compensation?

“A. Well, I don't know. If he would make a sale under an agreement with Wake Development Company, if there is any compensation coming to him, Wake Development Company would send it to him.

“Mr. Mainland: I will introduce this letter as Commission's Exhibit 12.

“(The letter referred to above was marked Commission's Exhibit No. 12, and was received in evidence.)

“By Mr. Mainland:

“Q. I show you now what appears to be an original copy of a letter from F. A. Stedcke to

(Deposition of Jacob Danziger.)

Trinidad International Petroleum, Ltd., dated October 19, 1937. Have you any recollection of receiving that letter?

“(Handing document to witness.)

“A. No, I wouldn't have any recollection of receiving an individual letter back in 1937, from one of hundreds.

“Q. In the lower left-hand corner there is a pencil notation, 'Original to C.'

“A. That is my sister's handwriting.

“Q. Who is 'C?' A. I don't know.

“Q. Have you any idea?

“A. I would guess it might be Carman, but I don't [489] know. There might be somebody else with a 'C.'

“Q. I notice that F. A. Stedcke's address is 689 South Main Street, Lima, Ohio. Is Mr. Stedcke the Lima, Ohio, fellow referred to by O. T. in the Lehmkuhl letter?

“A. I don't know. I have no independent recollection of anybody in Lima, Ohio, that was referred to there in that letter. Of course, we have no date here and I can't make a comparison whether it is likely that man or not. That Stedcke letter there is way back in 1937, but my guess would be it might not be him, because it speaks of writing a curt, short letter to somebody in Lima, Ohio, and from the looks of that letter in front of you to Stedcke, that is quite a long letter. Isn't it?

“Q. As a matter of fact, the wording is identical with the reply to Lehmkuhl, with the exception of

(Deposition of Jacob Danziger.)

the last paragraph. However, the reply to Lehmkuhl hasn't been introduced as an exhibit so that there would be no purpose served in going into that angle of it, if you are unable to testify.

"A. It may be that that is the man in Lima, Ohio. I just don't know, as a matter of fact. That was office routine that somebody else was handling.

"Q. You received your chief living from the sales of Trinidad stock during these several years, did [490] you not?

"A. Well, indirectly. Mrs. Danziger owned the Wake Development Company and she received monies from Wake Development Company from the sale of this Trinidad stock, that we both have been living off of. It has been the chief source of income of the two of us.

"Q. Then the sale of the Trinidad stock could hardly have been a matter of office routine to you?

"A. The preliminaries to the sale, the receipt of inquiries, the answering of inquiries, the references from salesmen, the references to salesmen, the getting out of circulars, if any were gotten out, the compiling of the form letters and the repetition of them were all office routine, all handled by Mrs. Faulkner, and once in a while she might bring in a letter for me to sign, where she wanted the president's signature, or she might have signed it herself. The receipts were not routine, because they were so infrequent that they couldn't become routine.

"Q. I refer you to a letter which you wrote to your sister on August 25, 1936, in which you state:

(Deposition of Jacob Danziger.)

In the meantime and until I instruct you definite, please continue the business with Carman exactly on the lines that we have been doing it.'

"A. What is the date? May I ask that again?

"Q. Let me finish the paragraph and then I will tell you. A. All right.

"Q. (Continuing): 'I assume all the responsibilities, as you know you are only my office assistant to carry out my orders.'

"The date of that letter is August 25, 1936.

"A. That is when I was in Europe.

"Q. Did that accurately reflect the arrangement between Mrs. Faulkner and yourself at that time?

"A. It did.

"Q. Was there any change in that arrangement afterwards?

"A. No. She was always acting as more of a secretary than acting in her initial capacity. I put certain matters, all of these matters when I was abroad, in her hands to carry out with the Great Eastern Company and she handled every bit of the correspondence, the receipt of the money, delivery of the stuff and so forth.

"Q. I refer you to what appears to be a type-written copy of a letter addressed to Wake Development Company and signed 'Jesse C. Stewart,' dated February 14, 1938. In the lower left-hand corner of that letter there is a penciled notation. 'Original to O. T. 2-18.' Whose handwriting is that pencil notation in? [492]

"A. That is my sister's handwriting.

(Deposition of Jacob Danziger.)

“Q. Do you have any idea what that pencil notation meant?

“A. Yes. It would mean to me, this being written on a typed copy of a letter, that she had forwarded the original of that letter to O. T. on the 18th day of February, of the year in which the letter was written.

“Q. Was there an arrangement with any one other than Winslow in February, 1938, for the sale of Trinidad stock?

“A. Well, it is hard to answer that question ‘yes’ or ‘no,’ and I would have to say that there were other people who would have a right to sell, by reason of the fact that they had been selling and they hadn’t been told not to continue, and if they had brought in a sale, why, we would have been very happy to have taken it. So I have to say that there are other people who had a right to sell, not a contract.

“Q. The fact of the matter is that you never discouraged anyone from selling Trinidad stock, who might be willing to do so, did you?

“A. That is correct.

“Q. Now, I refer you to an original letter dated January 5, 1938, addressed to Wake Development Company, by Jesse C. Stewart. In this letter Mr. Stewart inquired ‘Would also appreciate if you will advise me [493] if a Mr. Dawson who called on me, represents your firm.’

“Q. Do you know a Mr. Dawson?

“A. I knew there was a Mr. Dawson who had

(Deposition of Jacob Danziger.)

done some selling for the concern at some time, or some sales had come in from him. The name is clear to me.

“Q. Did Dawson go by the designation ‘O. T.’?”

“A. He may have. Mrs. Faulkner may have called him ‘O. T.’ or he may have called himself ‘O. T.’ I don’t know. It is possible. I don’t know who O. T. is by name. It may be that he was the one. You could surmise possibly so, from the fact that Mr. Stewart there speaks of a Mr. Dawson and there is an indication that at some time, I don’t know what it is in point of time, some communication from Mr. Stewart had been sent to O. T.

“Now, if those times are approximately the same, it may be that one could prove that O. T. and Dawson were on and the same.

“Mr. Mainland: I will introduce this whole file of correspondence between the Wake Development Company and Jesse C. Stewart as Commission’s Exhibit No. 13.

“(The file of correspondence referred to above was marked Commission’s Exhibit No. 13, and was received in evidence.)

“By Mr. Mainland:

“Q. Do you wish to look over the rest of this file? [494] It is your own file.

“A. Well, I have no objection to any of this.

“Q. I dislike separating the file and introducing only individual letters, you see.

“A. That is all right. I think that is the best way to put them in, put the whole file in.

(Deposition of Jacob Danziger.)

“Q. I show you a letter addressed to Mr. J. M. Danziger, President, Wake Development Company, Los Angeles, California, dated May 15, 1938, and signed by Raymond F. Walpert. Did you receive that letter through the mails from Mr. Walpert?

“(Handing document to witness.)

“A. I received that letter, because I gave it to you from my file.

“Q. In the lower left-hand corner there is a penciled notation, ‘O. T. 5-16.’

“A. And what is your question in relation to that?

“Q. Whose handwriting is that?

“A. That is Mrs. Faulkner’s handwriting, my sister’s.”

Mr. Lucas: At this time, if the court please, the government offers in evidence Exhibit 70, offered yesterday and marked 70, for identification, based on this testimony.

I recollect that it was offered for identification because counsel hadn’t the opportunity to examine the file; [495] but based on the evidence now before the court, I ask that it be offered in evidence.

Mr. Rose: I still haven’t had an opportunity to examine the file.

There have been some matters that have been marked by your Honor, with an indication on your Honor’s part that I would have an opportunity to inspect them. I thought that was in the interest of time, so if there were any objections to be interposed I would have a chance to examine it.

The Court: You will have to do it now or we will get lost.

Mr. Lucas: I believe that is Exhibit 70. I checked it last night.

Mr. Rose: Apparently opposing counsel is under the impression that merely because an inquiry is made at this extra judicial hearing, and he offers it, he thinks it, therefore, becomes admissible in this proceeding. I don't share his views at all.

The Court: Did Mr. Mainland identify it?

Mr. Lucas: Yes, he identified it.

The Court: Did he identify it as the file referred to in the query?

Mr. Rose: Your Honor, I stipulate that he has identified this file sufficiently for the record that when he says he talked to Mr. Danziger this was handed to him as the file. That is established, and its identification number 70 in the [496] record gives it identity. I am not quibbling about that, your Honor.

The Court: All right.

Mr. Rose: I am simply wondering, in the absence of reading this correspondence—does your Honor want me to take the time to read it?

The Court: You will have to some time, so it will have to be done now. There would be no point in putting it off.

Mr. Rose: Can you pass this and complete the reading here, and I will read it after court recesses? I don't want your Honor sitting up here while I read through some 25 pages.

The Court: That is all right. If I don't sit here, I will sit in the hotel. I will get in less trouble here, I should think.

Mr. Lucas: I am perfectly willing to continue to read and put it in in the morning.

The Court: You can't continue it indefinitely.

Mr. Lucas: I don't want to put it off.

The Court: You don't want to, and I am not going to.

Mr. Rose: Is this addressed to a count, offhand?

Mr. Lucas: Offhand I will tell you no. He is named in the indictment as being a defrauded person, but there is no count connected with him.

Mr. Rose: Your Honor, I haven't examined this particular offer, quite a voluminous group of documents, but it [497] involves, as appears from a chronological lineup of these documents, transactions in the spring of 1938 with someone in Sebring, Ohio. From an inspection of some of these documents that appear in this file, there is reference to this man having been swindled in the original Gas Company deal, that is Great Eastern Gas Company. He speaks of how he was high-pressured there, and so forth. And I might, incidentally, speak of that he mentions a Mr. Baker and a Mr. — some other person or two that has been mentioned, other than Mr. Baker. The same is highly prejudicial, your Honor. I feel if this is offered against the defendants on trial, that we should, fundamentally, be afforded an opportunity to be confronted by the witness. We are sought

to be charged by his vituperation and his manner, and so forth. I, therefore, submit that no proper foundation is laid, it is not competent, it is hearsay, that the same is not binding on the defendants on trial, and that it is not admissible under any known rule of evidence, because it fundamentally deprives the defendants on trial of their constitutional right to be confronted by the witnesses, to have an opportunity of cross examination, and to be apprised, first-hand, of the nature of the transactions insofar as they are offered against us, or to be binding on us; on all of those grounds, severally, I object to the reception in evidence of this series of papers marked 70, for identification.

The Court: Mr. Rose, I assure you that I don't consider [498] that I am trying the defendant for anything that was done in connection with the Great Eastern Gas Company stock, nor that he will be prejudiced by any reference in there to the methods by which the Great Eastern stock was distributed.

The file will be admitted.

Mr. Rose: May an exception be noted?

The Court: Exception allowed.

Mr. Rose: I may say, in response to your Honor's observation, I am not apprehensive that your Honor is going to go beyond your judicial province in passing on any issue in this case. I simply say, and I am very serious about it, from an inspection of this file, the cursory one that I had, I can't tell whether the men that came back to him in connection with the Trinidad stock were not the

same men that had sold him the original gas deal, and he says he is talking about how he was high-pressured and swindled, and so forth. It is highly inflammatory. If that man were here we would have an opportunity to canvass——

The Court: I guess Baker is here.

Mr. Rose: Baker?

Mr. Lucas: Baker is in the person of Mr. Carter.

Mr. Rose: I can't tell that that is Baker.

The Court: There has been testimony.

Mr. Rose: We know——

The Court: That is all I know.

Mr. Rose: That is correct. There have been so many [499] names mentioned, frankly I don't know whether this is Baker on this occasion or some other.

The Court: All I said was I guess Baker is here. I chose my words carefully.

Mr. Rose: We know there was a Baker there. Was that the McCoy transaction?

Mr. Lucas: Yes.

Mr. Rose: We know there was a Baker here. Whether the initials were given, I don't know. Here there are specific examples.

I think it is "A. L."

The Court: I thought you would say "O. T." for a while.

Mr. Rose: No. It gives the initials and gives an address about him somewhere here.

The Court: Let's put it in and note the exception. Go on; do some more reading.

(The document referred to was marked as Government's Exhibit No. 70, and was received in evidence.)

Mr. Rose: He does give the initials, your Honor.

Mr. Lucas: In order to be perfectly fair with all concerned, I now offer in evidence as a part of Exhibit 70, now in evidence, all of the original letters that are in my possession or in the possession of the S.E.C., on the stationery of Wake Development Company, together with the envelopes in which they were purportedly sent to Raymond F. Walpert, each letter in each case having attached to it an [500] envelope, with the exception of the earliest letter, namely, that of March 31, 1938, to which there is no envelope attached.

The Court: Where did you get those?

Mr. Lucas: Those were received—just a minute, your Honor.

Mr. Rose: I would assume, offhand, your Honor, they probably were procured from Mr. Walpert from Sebring, Ohio.

Mr. Lucas: Those were received, as told to me just now by Mr. Mainland, through the mails, in response to inquiries sent by the Commission, and that witness was not one interviewed by Mr. Mainland.

The Court: How can you identify these?

Mr. Lucas: Other than the handwriting and everything that is on them.

The Court: Have you somebody here that can prove the handwriting on them?

Mr. Lucas: We have. I thought counsel's statement was there would be no dispute about that.

Mr. Rose: Do you mean in regard to Wake Development Company?

The Court: The file you have in your left hand?

Mr. Rose: Your Honor, these are ostensibly letters from Wake Development Company signed by Faulkner; I am not questioning that. In other words, I assume that these letters, in a sense, are already in evidence in the form of [501] Exhibit 70, because my offhand impression is, as I note here, that these are the originals of the copies that have already been received by your Honor.

The Court: Are they?

Mr. Lucas: That is my impression.

Mr. Rose: I don't know what his object is in offering the originals. It is a duplication of what is already here, and it is incomplete, because it only shows one part of the correspondence. I don't know what his object is, and as I pointed out to your Honor I am not attempting to be frivolous here, but if the intention is to show these were sent through the mails, there isn't any question about it. I say your Honor couldn't come to any conclusion other than that from those copies, draw the inference, because they say, "In answer to yours," and so forth.

I am not standing on that quibble; my objection goes to the grounds I have indicated, and not on a technicality that they haven't been definitely identified. So, may it be deemed, your Honor, that my objection interposed to No. 70, which, in addi-

tion to other documents, contains the carbon copies of all these that are offered, is interposed to these?

The Court: So understood.

Mr. Rose: My exception is noted?

The Court: The same exception will be noted as to the copies. The originals may be attached to 70 and become a part of it. [502]

Do you want to call it a day?

Mr. Lucas: I am perfectly agreeable to that.

The Court: Mr. Rose? It is a few minutes to five.

Mr. Rose: Very well, your Honor.

Mr. Lucas: Nine o'clock in the morning, did your Honor say?

The Court: Yes.

Mr. Rose: That is practically in the middle of the night for me.

(Whereupon, at 5:00 o'clock p.m., January 19, 1945, an adjournment was taken until 9:00 o'clock a.m., Saturday, January 20, 1945.) [503]

Los Angeles, California,

Saturday, January 20, 1945, 9:00 A.M.

Mr. Lucas: If your Honor please, Mr. Rose just stepped out for a moment; he will be right back.

Defendant Danziger: If it is agreeable to the court, Mr. Lucas can just go ahead reading and I will follow it along.

(Mr. Rose made his appearance.)

(Deposition of Jacob M. Danziger.)

The Clerk: Mr. Lucas, is it necessary to have Carter here now?

Mr. Lucas: I should think he should be here. I don't think it is absolutely necessary; he is not on trial, but he has been here. I think we can proceed safely without him.

The Court: We will proceed without him, whether he is here or not. I am not interested in that. You make your own arrangements.

Mr. Lucas: Ask them to bring him over. Are we ready to proceed, your Honor?

The Court: Yes.

Mr. Lucas: Do you agree, counsel, that the last words I read were: "That is Mrs. Faulkner's handwriting, my sister's"?

Mr. Rose: Yes.

(Thereupon, counsel continued reading as follows:)

"Q. Do you know what she meant by that notation? [505]

"A. Well, I would guess by my knowledge of office routine that that meant that this letter or a copy of it had been sent to O. T. by herself on the 16th of May.

"Q. Did you instruct Mrs. Faulkner to send a copy of that letter to O. T.?

"A. I don't remember of ever seeing the letter, or the circumstances are not in my mind at all. She had general instructions to conduct the business. It may be, under those instructions, she felt called upon to send that letter to somebody.

(Deposition of Jacob M. Danziger.)

“Q. In this letter Mr. Walpert mentioned two persons, a Mr. A. L. Baker, and Mr. Winslow, that Mr. Baker had called upon him and had mentioned Mr. Winslow to him, according to Walpert’s letter.

“A. Just one of them called or did they both call?

“Q. The letter says that Mr. Baker called on Mr. Walpert. Do you know whether Mr. Baker or Mr. Winslow is O. T.?

“A. I don’t know who Mr. O. T. is, Mr. Mainland. I can speculate with you, by putting this together with that and something else, like a jigsaw puzzle, as to who it might be, but I don’t know.

“Q. I refer you to the carbon copy of a letter addressed to Raymond F. Walpert, under date of May 25, 1938, and signed ‘J. M. Danziger, President.’ Did you [506] type that letter?

“(Handing document to witness.)

“A. I think it is my typing. It looks like it, and from the fact that it does not have an insignia in the corner, I would think I did type it. I don’t have any independent recollection of having written it. I do remember some business from Walpert, it comes to me from the correspondence there.

“Q. In this letter to Mr. Walpert you refer to the Mr. Baker who called on Mr. Walpert, and you ask him to give you the last date he called upon Walpert. Apparently, Mr. Walpert had complained of the transaction which had occurred a short time before May 25, 1938.

“A. That is indicated by the correspondence.”

(Deposition of Jacob M. Danziger.)

Mr. Rose: Pardon me, counsel, I didn't want to interrupt you, but in the last series of questions and answers you haven't indicated which is the question and which is the answer.

Mr. Lucas: The court indicated yesterday, that so far as he was concerned I didn't have to read 'Question' and 'Answer,' and I just sort of adopted that. If you would prefer, I will read 'Question' and 'Answer.'

Mr. Rose: For example, in the last matters you don't know who is making the statement.

Mr. Lucas: Very well.

Mr. Rose: But if his Honor directed—— [507]

The Court: I didn't direct it.

Mr. Lucas: He didn't direct it.

The Court: I have sufficient intelligence that I can distinguish between questions and answers, and I never waste my time reading 'Questions' and 'Answers'; but if you lawyers want to do it, all right.

Mr. Rose: No, your Honor. I didn't mean to indicate there is any confusion in your Honor's mind. It just happens in that particular series of questions and answers that were involved, while I followed him I wasn't quite certain, myself, as he was going so rapidly, which was the answer and which was the question.

I stipulate that you may dispense with that process.

Mr. Lucas: Very well, I will accept the stipulation, counsel.

(Deposition of Jacob M. Danziger.)

(Thereupon, counsel continued reading as follows:)

“Q. Did you make any attempt to learn from O. T. who this A. L. Baker was?

“A. I don’t know who O. T. was, and, consequently, I can’t say to you that I made an attempt to find out from O. T. I was trying to figure out what was happening and who was going the rounds, because apparently from several letters that had been received, somebody was going the rounds, and I was trying to find out as best I could who it might be. Now, my sister may have carried on some correspondence in aiding me in that [508] regard. I am not certain. I haven’t any independent recollection of it.

“Q. In May, 1938, you were having no contact or communication with William Carman, were you?

“A. No. I have no recollection of ever having a communication from Carman after I saw him in New York in the summer of ’37.

“Q. Have you transmitted any funds to Carman for any purpose whatever since July, 1937?”

The Court: Read that question again.

(Thereupon, counsel continued reading as follows:)

“Q. Have you transmitted any funds to Carman for any purpose whatever since July, 1937?”

“A. No, sir.

“Mr. Mainland: I will introduce this entire

(Deposition of Jacob M. Danziger.)

Raymond F. Walpert file of correspondence, containing the two letters which have been shown to Mr. Danziger and identified, as Commission's Exhibit 14."

Mr. Rose: The whole file is in, as I understand it.

Mr. Lucas: Some of the originals——

Mr. Rose: You offered the originals.

Mr. Lucas: Thank you.

(Thereupon, counsel continued reading as follows:)

"Q. I show you now an original letter addressed to Wake Development Company, 408 South Spring Street, Los Angeles, attention Mr. J. M. Danziger, signed A. W. [509] James. Did you receive that letter?

"(Handing document to witness.)

"A. I am sure I received this letter, because it was produced for you from our file. I have no independent recollection of having received that.

"Q. What did you do with the letter after receiving it?

"A. I don't know. I don't remember having received it."

The Court: Let the record show that the defendant Carter is now in the room.

Mr. Lucas: Thank you.

(Thereupon, counsel continued reading as follows:)

"Q. On the letter in pen and ink is the fol-

(Deposition of Jacob M. Danziger.)

Following notation, 'Since he has been so cute as to direct to you personally, I would answer him personally and let him know who and what your antecedents were for 20 years and also who the others are, and use your own judgment, J. M., maybe I am a little impetuous and sore.' Then there is another pen and ink notation, pointing to the third paragraph, which says, 'No such indication.'

"Was that pen and ink notation on the letter when you first received it?

"A. No. I am sure of that from the looks of the letter, that everything that is written on there in pen and ink, outside of the signature, was not on the [510] letter when it was received."

The Court: Where is that letter?

Mr. Lucas: I believe that is in evidence, your Honor. It is part of 72, your Honor.

The Clerk: That is for identification.

Mr. Lucas: I now move it in evidence, if the court please. It was heretofore "for identification."

Mr. Rose: May I look at it?

(The document was handed to Mr. Rose.)

Mr. Rose: Are you just offering this particular letter from James?

Mr. Lucis: No; I am offering the entire file. I think it was marked for identification, counsel, because you wanted the opportunity of perusing the whole file.

Mr. Rose: Well, I may be a little obtuse, but as I understand the state of the record, reference has

been had to a particular letter with some notations on it, purportedly signed by one James. I have that letter as a part of the group that we are discussing here, and his Honor has made inquiry about this particular letter and the notations. I assumed he was going to offer this letter alone. Now he is trying to offer some other documents that are attached to it.

The Court: Put Mr. Mainland up here to identify that as having come from Mr. Danziger's file.

Mr. Rose: Your Honor, I am making it quite clear that this particular letter that I have in my hand is the letter [511] referred to in that inquiry.

ALLEN G. MAINLAND,

called as a witness by and on behalf of the plaintiff, having been previously duly sworn, resumed the stand and testified further as follows:

Direct Examination (Resumed)

By Mr. Lucas:

Q. Mr. Mainland, I show you here what has been marked Government's Exhibit 72, for identification, and ask you if you received the entire file from Mr. Danziger in the course of your investigation for the Securities and Exchange Commission? A. I did.

Q. I direct your attention to the particular letter that has been the subject of the questioning

just read, showing certain notations; did you receive that, also, in particular, from Mr. Danziger, or did you procure it——

Mr. Rose: It is purely argumentative. The witness testified he received it all. What difference does it make whether he receives one of them particularly? It is innocuous, but I don't understand the purpose of the inquiry.

Mr. Lucas: I was calling the witness' particular attention to that letter, to make certain——

Mr. Rose: The witness stated he received them all, and it is clear to everyone.

The Court: State your objections. [512]

Mr. Rose: I would like to see it so I can state——

The Court: Make your formal offer.

Mr. Lucas: I now offer the entire file that has heretofore been marked 72, for identification, in evidence.

Mr. Rose: Objection is had to this series of documents now marked 72, for identification, and referred to in the offer, upon the following grounds, severally, your Honor: One, that no proper foundation has been laid. Secondly, that the communications in numerous respects, forming a part of this particular exhibit, are communications by persons other than the purported purchaser of stock, namely, William Wintrup. The said file contains letters from a law firm in Wilmington, Delaware; no foundation has been laid as to these addendas, or is it shown that any knowledge of the identity

(Deposition of Jacob M. Danziger.)

of persons making certain subscriptions, notations, on part of these communications, is in evidence or has been presented or established. The same is an attempt to bind the defendants on trial by self-serving declarations, hearsay, and denying us our constitutional right to be confronted by the persons asserting the matters contained in some of the memoranda which constitute a part of this exhibit.

The Court: The file is admitted.

Mr. Rose: May an exception be noted?

The Court: Exception allowed.

Mr. Lucas: You may step down. [513]

(Witness excused.)

(Thereupon, counsel continued reading as follows:)

“It may have been on the letter the first time I saw it. I don’t know. I don’t remember ever seeing the letter. I know we received the letter, because it is addressed to the company and it is produced to you from our files, but I have no independent recollection of recollection of having received it or that I received it or the company received it. Mrs. Faulkner might have received it and sent it to somebody who made these written comments and then it came to me. I don’t know. I have no remembrance of having seen it before.

“Q. Do you know who made the pen and ink notation?

(Deposition of Jacob M. Danziger.)

“A. No, I don’t know the handwriting. I don’t know who wrote it. I was just wondering whether the ‘no such indication’ words were written by the same person or not.

“Q. Is that handwriting your sister’s handwriting?

“A. No, it is not my sister’s handwriting and it isn’t my handwriting.

“Q. You will notice that the notations are evidently addressed to you personally——

“A. Yes.

“Q. ——because it says, ‘Use your own judgment, J. E.’ A. Yes. [514]

“Q. Does that ‘J. M.’ refer to you?

“A. Evidently. Those are my initials.

“Q. It must have been someone familiar enough with you to address you as ‘J. M.’?”

Mr. Rose: I object to that as purely argumentative and calling for a conclusion and opinion of the witness.

The Court: He may answer.

(Thereupon, counsel continued reading as follows:)

“A. Well, several of those salesmen were calling me, ‘J. M.’ and after ten minutes they would call you by your first name.

“Q. Do you remember ever having seen that pen and ink notation before?

“A. No, I don’t remember having seen the letter. I undoubtedly did though, because a letter of that character would not get into our files without

(Deposition of Jacob M. Danziger.)

my sister having given it to me. It would not have gone there as a matter of routine. Off the record, may I say something?

“Q. Yes, off the record.

“(Discussion off the record.)

“Mr. Mainland: On the record. Mr. Danziger has suggested off the record that the handwriting be compared with that of Harry Aronson.

“By Mr. Mainland:

“Q. Did you follow the suggestion contained in the [515] notation addressed to you?

“A. I don't remember what the notation was.

“(The document referred to was handed to the witness.)

“A. Well, apparently, from the carbon of my letter of November 8, 1937, which appears in this file, in which I acknowledged Mr. James' letter of October 28, being the letter we have just been discussing, I evidently did not follow the handwritten suggestion of giving him my antecedents, and also who the others are, because there is nothing in my letter bearing on that subject.

“Q. Mr. James' letter to Wake Development was addressed to your attention. Why would it be cute to direct a letter to you personally, as suggested by the pen and ink notation? Isn't that perfectly natural, to address a letter to a company's president?”

Mr. Rose: I object to that as purely argumentative.

(Deposition of Jacob M. Danziger.)

The Court: He may answer.

(Thereupon, counsel continued reading as follows:)

“A. I would say so. I would say whoever made the observation that this was cute was talking out of turn, and, apparently, I didn’t pay much attention to their suggestions, because I didn’t carry them out. It is perfectly logical for a man address a letter to a person who has replied to him. [516]

“Q. Do you know what the writer of the pen and ink note intended to convey to you by his statement that it was cute to direct a letter to you personally?

“A. Well, I think my interpretation of it would be that when he speaks of a man being cute, that he means that he is not literally cute, as we use the word, but that he means he is, oh, I don’t know, use the word ‘tricky’, or—well, I think that the meaning of the word ‘cute’ used in context as it is there is pretty well understood by any of us. I can’t think of any other synonym for it than possibly the use of the word ‘tricky’.

“Mr. Mainland: I will introduce the entire file with William Wintrup, which contains the original letter from A. W. James, and the reply by Mr. Danziger to Mr. James, which Mr. Danziger has identified, as Commission’s Exhibit 15.

“(The correspondence file referred to above was marked as Commission’s Exhibit No. 15, and was received in evidence.)

(Deposition of Jacob M. Danziger.)

“Mr. Mainland: We will have a short recess.

“(Short recess.)

“Mr. Mainland: We will resume.

“By Mr. Mainland:

“Q. Mr. Danziger, do you know how many shares of the Great Eastern stock were outstanding?

“A. No, I don't. [517]

“Q. Was your offer under your contract with Great Eastern open to any of the stockholders who wished to take advantage of it?

“A. No. My memory of the contract is that we agreed to make an exchange for a number of shares, very much less than their capitalization, and they had the right to make that offer of exchange to such of their stockholders as they saw fit.

“Now, again—maybe, not again, but the details of that Great Eastern contract were brought out in some form in the very first investigation that we had of this relationship a long time ago, when it was much fresher in my mind, and I think we had some documents.

“Q. Did you limit the amount of Trinidad stock that would be sold out of the holdings of the Wake Development Company?

“A. Yes. My recollection is that the deal was for 40,000 shares and we escrowed that amount of stock down in Wilmington with a Trust Company down there.

“Q. And the price of the Trinidad stock, to-

(Deposition of Jacob M. Danziger.)

gether with a unit of a note of the par value of one pound, was to be \$5, was it?

“A. Well, we got \$3 net. We got \$5, excepting for \$2 a share of Great Eastern stock, and we got in cash under that arrangement, or we were to get in cash under that arrangement, \$3.

“Q. Did you consider the possibility that Trinidad [518] stock and notes should have been registered with the Securities and Exchange Commission?

“A. No, and I don’t—yes, I think I did give consideration to that, and addressed some hypothetical question to the Federal Trade Commission which was the predecessor of the Securities and Exchange Commission. They replied, satisfying me as a lawyer that Wake Development Company could offer its privately owned stock without any registration.

“Q. In the sales you have made in the last couple of years, are you still relying upon that opinion?

“A. Yes. I have never been told to the contrary or instructed to the contrary by the Commission, after at least two prior inquiries into the relationship.

“Q. You will recognize that the relationship of these various salesmen to Wake Development Company, as you outlined the relationship, is most peculiar. They, apparently, have no identity. The files of the Wake Development Company, which you have permitted me to examine, reflect no corre-

(Deposition of Jacob M. Danziger.)

spondence whatever with any salesmen. You say that none of them since approximately July, 1937, were paid a commission, and yet the correspondence files with purchasers of Trinidad, which you have showed me, indicates clearly that salesmen were working.

“A. Well, I don’t know that you would call those [519] salesmen, if they weren’t working for us for a commission. It would indicate some individuals were working, but are we going to call them salesmen, under the arrangement that was made with the Great Eastern Coompany where it had certain rights to do certain things and used salesmen in the carrying out of the process. We call them salesmen, and I have referred to them as salesmen, but to be technically accurate there, they haven’t been getting a commission, and I would say they were volunteer intermediaries. They don’t purport to represent the company. They don’t represent the company. The company isn’t employing them, isn’t paying them. I mean by ‘the company’, the Wake company isn’t. What their relationships are with the Great Eastern, or individuals representing the Great Eastern, of course, I am not in a position to say in detail. I am just as much speculating as you are.

“Q. The transaction in 1940 with Elizabeth Parsons, was that the only transaction you had with her during 1940? I should say, was that the only transaction that you had on her behalf during 1940?

“A. Well, I don’t remember that we had any

(Deposition of Jacob M. Danziger.)

other relation with her than the one that Mr. Aronson had, that he came along in that year and bought some stock.

“Q. Did you receive any funds from her in addition to the five or six hundred dollars you mention? [520]

“A. I have no recollection of having received any funds from her.

“Q. I wish you would test your memory a little further, Mr. Danziger, with respect to Mrs. Parsons. You have mentioned that stock was issued in her name, and that that stock was issued pursuant to instructions received from Mr. Aronson over the counter in Los Angeles.

“A. That is my recollection.

“Q. Do you have an address for Mrs. Parsons?

“A. I don't know if there is one that appears there on the stub or not.

“Q. There is one that appears on a stub, which is 809 Avenue 'D', San Antonio, Texas, but there is no such address in San Antonio, Texas.

“A. Can I see that stub, Mr. Mainland?

“Well, I will put it this way: If that is the address that appears on the stub, that is the only address we have.

“Q. In that case I won't take time to find it.

“I show you an original letter addressed to Mrs. Elizabeth Parsons, 801 Mahantonga Road, Pottsville, Pennsylvania, dated May 2, 1940, and signed, 'Wake Development Company, by R. Beveredge.' Can you identify that letter?

“(Handing document to witness.)

“A. It is on our letterhead. We had an office employee by that name at one time. That is all I can tell you about it, Mr. Mainland.

“Q. In whose handwriting is that signature?

“A. Well, I think it is in Miss Beveredge’s handwriting. I am not familiar enough——

“Q. Isn’t that your handwriting, Mr. Danziger?

“A. I don’t think so. We had somebody by that name in our office. That I remember.

“Q. Did you write that letter?

“A. I have no knowledge of having written it.

“Mr. Mainland: I will introduce that as Commission’s Exhibit 16.

“(The letter referred to above was marked Commission’s Exhibit No. 16, and was received in evidence.)

“By Mr. Mainland:

“Q. I show you an original letter addressed to Mrs. Elizabeth Parsons at the same address as the previous exhibit, under date of May 15, 1940, and signed ‘Wake Development Company, J. M. Danziger, by C. Postale, Secretary.’

“A. That is my handwriting.

“Q. Did you write that letter?

“A. Well, by writing it, do you mean did I type it?

“Q. No, did you dictate it?

“A. I either dictated it or—— [522]

“Q. All right. I am sorry I interrupted you.

“A. You asked me, did I write this letter, I

(Deposition of Jacob M. Danziger.)

either dictated it or typed it, because it has my signature.

“Q. Does this letter recall any more of the details of the transaction with Mrs. Parsons to you?

“A. Well, between the two letters, it is evident that the Parsons’ stock was not delivered—my impression was that I had delivered it to Aronson, but my impression is different from reading those letters.

“Apparently, the stock was transmitted to her.

“Q. Exhibit No. 16, acknowledges receipt of Mrs. Parsons’ check for \$1370, and the letter of May 15, 1940, refers to a balance due from Mrs. Parsons of \$540, thus indicating that in connection with this transaction she paid not five or six hundred dollars, as you have testified Aronson paid, but about \$2,310.

“A. You can deduce that from the letters.

“Mr. Mainland: I will offer the letter of May 15, 1940, introduce it in evidence as Commission’s Exhibit 17.

“(The letter referred to above was marked Commission’s Exhibit No. 17, and was received in evidence.)

“By Mr. Mainland:

“Q. Did Wake Development Company actually receive this \$1370? [523]

“A. Well, I would have to get back into our bank records. We acknowledged receipt of it, that is a cinch.

(Deposition of Jacob M. Danziger.)

“Q. Did you pay a commision to Mr. Aronson on this deal?

“A. Well, we had—no. We had some—we got a net amount of money from Aronson. We may have paid him back part of the money that he turned over or that we received, but the thing that stood out in my mind is that we got a net figure from him on the transaction.

“Q. I show you now a note receivable, signed by Elizabeth Parsons. The note is dated May 18, 1940, and the payee is the Wake Development Company. Various rubber stamps and the note indicate that it was paid on or about July 1, 1940. Was that note at one time in your possession?

“A. It was. I prepared it. It is my typing.

“Q. On whose instructions did you prepare that note?

“A. It must have been on Aronson's. Yes, it must have been on Aronson's. I refer to it, as you will notice, in the letter of acknowledgement there.

“Q. Was that note in fact paid by Mrs. Parsons?

“A. I am not prepared to say, Mr. Mainland.

“Q. At any rate, the note is no longer in your possession? Your surrendered it?

“A. Well, it wasn't any longer in my possession. That is obvious.

“Q. Do you remember how it got out of your possession? A. No, I don't.

“Q. If it had any value, it certainly would no have gotten out of your possession without payment, would it? A. It might have.

(Deposition of Jacob M. Danziger.)

“Q. Did you hand it back to Aronson?

“A. I haven’t any independent recollection of it, Mr. Mainland. To get the details of the transaction with Aronson, I would have to sit down and have a talk with him.

“Mr. Mainland: I will introduce that as Commission’s Exhibit No. 18.

“(The note referred to above was marked Commission’s Exhibit No. 18, and was received in evidence.)

“By Mr. Mainland:

“Q. I refer you now to a letter addressed to Elizabeth T. Parsons, under date of February 8, 1938, and signed ‘J. M. Danziger, Chairman.’ This letter is on the letterhead of Trinidad International Petroleum, Ltd.

“A. I signed this letter. It is written on our letterhead. Does that answer your question?

“Q. Did you write the letter?

“A. Well, I signed it, so I either dictated it or I wrote it. I don’t know which.

“Q. You caused it to be mailed to Mrs. Parsons?

“A. Yes, that is obvious from the fact that she has it in the envelope there.

“Q. The first paragraph of this letter states, ‘We have your letter of the 5th inst. Mr. Edwards can be addressed through this office at any time.’

“Who is the Mr. Edwards referred to?

“A. It was somebody that was tied up with Winslow. My impression is that the first sale that

(Deposition of Jacob M. Danziger.)

I made to Winslow involved some shares of stock that went into Edwards' name.

“Q. Well, who was this Mr. Edwards?

“A. I never met him. I don't know him.

“Q. What did you do with any letter that came to Trinidad——

“A. I don't remember of ever any coming.

“Q. (Continuing) ——for Mr. Edwards?

“A. I don't remember every any coming. If any did come, my sister probably would have sent it to Winslow, or if she had an address for Edwards, it would have been sent to Edwards.

“Q. Was Edwards the salesman who contacted Mrs. [526] Parsons?

“A. I don't know, Mr. Mainland. I had some contact with Winslow. Whether he contacted Mrs. Parsons or made the sale to her, or who did it back in '38, I don't know.

“Q. Then if Winslow and a Mr. Edwards were the men who contacted Mrs. Parsons, how did Aronson come into the picture?

“A. I don't know. I don't know where he got his lead, if you would call it a lead, in that direction.

“Q. As a matter of fact, you have had considerable correspondence with Mrs. Parsons, have you not, personally?

“A. You show me considerable correspondence here with her, yes.

“Q. Well, you have testified that you had no correspondence with Mrs. Parsons?

(Deposition of Jacob M. Danziger.)

“A. Well, that was my impression until you showed me some correspondence.

“Q. Were there any further transactions with Mrs. Parsons during 1940?

“A. I don’t—I haven’t any recollection of anything except this stock transaction here, and, apparently, there was some note transactions involved in the process.

“Mr. Mainland: I will introduce this letter of February 8, 1938, as Commission’s Exhibit No. 19.

“(The letter referred to above was marked Commission’s Exhibit No. 19, and was received in evidence.)

“By Mr. Mainland:

“Q. Mr. Danziger, I am satisfied that you remember more about your dealings with Mrs. Parsons and those connected with her than you have told me, and it would be much easier if you would give me that information, instead of my continually referring to letters and questioning you.”

Mr. Rose: Just a minute. I object to that as purely argumentative and a conclusion and opinion of the inquirer.

The Court: He may answer.

(Thereupon, counsel continued reading as follows:)

“A. Well, I give you any information that I have in my mind, Mr. Mainland, and if you have any records of any character that will enable me to elucidate any further, I would be very happy to

(Deposition of Jacob M. Danziger.)

have you present them, as you have been presenting them, and to give my testimony on them.

“Q. Well, the first thing we might get out of the way is this fiction about Aronson.”

Mr. Rose: Just a minute. I object to that question as purely argumentative, calling for a conclusion and opinion of the witness.

The Court: He may answer. [528]

(Thereupon, counsel continued reading as follows:)

“A. Well, there is no——

“Q. (Continuing) Aronson had nothing whatever to do with this Parsons’ transaction did he?”

Mr. Rose: I object to that as purely argumentative.

The Court: He may answer.

(Thereupon, counsel continued reading as follows:)

“A. Yes, he did, Mr. Mainland.

“Q. Have you any way of reaching Aronson, so I could question him?

“A. Well, I think I gave you the only addresses that I have had from him.

“Q. I show you a letter to Mrs. Frank B. Parsons, dated August 10, 1940, signed ‘Wake Development Company, by C. Postal.’ In whose handwriting is that ‘C. Postal’? A. I wrote that.

“Q. Did you write the letter?

“A. I either wrote it or dictated it. I very likely wrote it, because it doesn’t have any insignia.

(Deposition of Jacob M. Danziger.)

“Q. Did you mail it in that envelope to Mrs. Parsons?

“A. It looks like our envelope, and I am quite sure that is the envelope in which—it is our office envelope.

“Q. What was that \$1,000 paid to Wake Development [529] Company for?

“A. Evidently, she sent some instructions bearing on the subject, Mr. Mainland.

“Q. Did Aronson have anything to do with that transaction?

“A. It was the outgrowth of his deal. How does this compare with the note? May I look at the date of that note? Is that the payment of the note?

“Q. I would rather not have you ask me the questions.

“A. I am just trying to answer your question by gathering some information. I don't presume to suggest how you conduct your examination.

“Q. Do you recall anything about this \$1,000?

“A. No. My recollection of the Parson's business is it was all an outgrowth of Aronson's transaction with her.

“Q. How much stock did you sell to Aronson in his Parsons' deal?

“A. Our stock certificate book will show what was sent to her.

“Q. 600 shares?

“A. Now, then, the Edwards' stock apparently figures in that transaction somewhere. You called

(Deposition of Jacob M. Danziger.)

my attention in the correspondence that she mentioned Edwards. Do you remember? There were some certificates where I was in doubt as to whether they were a transfer, [530] that were issued to someone named Edwards. Well, that—in my mind is cleared on the question of whether that Edwards' stock was a transfer or what it was. It figured in the deal with Aronson.

“Q. It was a part of the stock which Aronson bought and Mrs. Parsons paid for?

“A. Well, Mrs. Parsons may have paid him for it. It was part of the transaction that I had with Mr. Aronson. The Edwards' stock—that is, answering your question as to how much stock was sold to her, the Edwards' stock is a part of the stock that Aronson delivered to her or caused to be delivered to her.

“Q. I refer you to the second paragraph of Exhibit No. 17, which says in part, with reference to the note for \$940, which has been introduced as Commission's Exhibit 18:

“‘If you will kindly sign this note and return it with the stub receipt for the stock and notes, our records will then be complete and we can credit your account on our books with the amount of this note which will then make your account completely paid in full.’

“The date of that exhibit is May 15, 1940. The letter of August 10, 1940, acknowledging receipt of \$1000 from Mrs. Parsons occurred considerably after May 15th. [531]

(Deposition of Jacob M. Danziger.)

“A. From the letter she evidently sent the money into the office. She sent a sum of money into the office. Now, I take it, in view of the fact that you don’t have a letter in which I ask her for the money, that Aronson had probably had had some communication with her.

“Q. But in this case it wasn’t Aronson who brought the money into the office. It came to you from Mrs. Parsons?

“A. No, any money she sent he didn’t bring into the office.

“Q. Can you tell me what the \$1000 was for?

“A. I don’t know.

“Q. Was it deposited in the bank account of Wake Development Company?

“A. Yes. Any money received is always deposited in our bank account.

“Q. What did Wake Development Company do with that \$1000?

“A. Well, it did just what it does with any of its money.

“Q. Did it pay some of it to Aronson?

“A. No.

“Q. Did it pay some of it to Edwards?

“A. No. I never paid any money to Edwards.

“Q. And it retained the entire \$1000? [532]

“A. It retained it, so far as those individuals are concerned, and used it. I mean, it hasn’t the money today. It didn’t put it in a drawer or a savings account. It used it in its business, but it did not pay it to any of those people.

(Deposition of Jacob M. Danziger.)

“Q. Did you draw upon that \$1000 out of the Wake bank account in cash?

“A. I generally drew some considerable sum of money when I got a considerable sum of money. Just what took place at that particular time, I would have to go to my stubs to find out how much, but generally when I got a deposit, the Wake balance was never carried very long at any time or over——

“Q. Was this \$1000 in payment of stock purchased by Mrs. Parsons?

“A. We didn't sell her any stock.

“Q. Well, Mr. Danziger, \$1000——

“A. (Continuing) I don't know, but either Edwards or Aronson, Aronson probably, told her to send \$1000 in to the office. It had to do with my deal with him originally.

“Q. With whom?

“A. With Aronson. I sold Aronson a flat sum of shares for so much money. He paid me some and he was to pay the rest.

“Q. And you said it was five or six hundred dollars?

“A. That was my recollection of the amount, and I think that was the amount of the first payment. You asked me what the payment was at a certain time.

“Q. No, I asked you what the consideration was for the sale of that stock.

“A. Of that stock. Well, I was giving you the figure and I thought five or six hundred dollars,

(Deposition of Jacob M. Danziger.)

looking at the certificate for five or six hundred shares. That was my best recollection.

“Mr. Mainland: I will introduce this August 10, 1940, letter as Commission’s Exhibit No. 20.

“(The letter referred to above was marked Commission’s Exhibit No. 20, and was received in evidence.)

“By Mr. Mainland:

“Q. Did you have a written agreement with Aronson on that transaction? A. No.

“Q. Do you want to tell me who Mr. Edwards is?

“A. I don’t know him. He is apparently some contact of Winslow’s. I gather that from the—may I lift up the other two documents?

“Q. Yes.

“A. (Referring to documents) From the first one of these letters you showed me here—there is something [534] you have shown me here, I don’t know where it is, Mr. Mainland, since I have been sitting here, that ties Edwards and Mr. Winslow’s name together. Doesn’t it?

“Q. I don’t see anything along those lines.

“A. Well, I have got it in my mind. In the very first transaction I had with Winslow when I returned from London to New York, I sold him a block of stock, and some of it went to Edwards, and the thing in my mind is that Edwards must have had some—Parsons must have been his direct customer at that time. We had no direct contact with her whatever. She figured in the transaction

(Deposition of Jacob M. Danziger.)

through the business that Winslow did, and, apparently, Edwards was the man, because some time in the correspondence she refers or evidently asked something about where she could reach Edwards.

“Q. The stock ledger, Commission’s Exhibit No. 5, fails to show that Edwards was ever a stockholder of Trinidad. What makes you think that Edwards was in on that deal in 1938?

“A. Well, because I know that Winslow brought about the—his first sale was to Mrs. Parsons. I know that, and I will see if we can’t verify the date here, with relation to the time I came back. Now, she mentions Mr. Edwards here, and I put two and two together, that Edwards must have been a contact of Winslow’s, because—— [535]

“Q. Will you show me, Mr. Danziger, where she mentions Edwards?

“A. Yes. I saw something about, ‘you can reach Mr. Edwards through this office.’

“Q. Well, she didn’t mention Edwards. You did?

“A. Well, in reply to something she must have been inquiring about.

“Q. Have you a file of correspondence written to you by Mrs. Parsons?

“A. I will have to look.

“Q. If you have, will you bring it in?

“A. Yes. Now, I want to get Winslow—Winslow’s first sale was July 26, 1937. It involved—there were 3500 shares, of which 400 has been transferred; 3100 shares on our records still in his name.

(Deposition of Jacob M. Danziger.)

“Now, let’s tie that date in with the first certificate to Parsons. It looks like June—I can’t read my own handwriting—August 3, 1937, and the Winslow business was in July, 1937. I have a very decided impression that Mr. Winslow’s first deal,—I sold him a block of stock that I had and he got money to pay for a portion of that stock from Mrs. Parsons, and those dates would indicate it.

“Now, let’s check another thing. May I, Mr. Mainland?

“Q. What is it you want?

“A. I want to check now in whose name did Winslow’s transfer go? There is 200—there were several certificates that have been transferred out of Winslow to somebody. Did they go to Parsons?

“Q. I would like to know that. If you can tell me how we can determine that from the records, I would be glad to have you do that.

“A. I am not telling you what the records show. I am trying to find out what the records show.

“Q. Wait a minute. We are going to get questions in here without answers. A. O. K.

“Q. Are you able to tell from your records to whom the stock that was originally issued to Winslow was afterwards transferred?

“A. Let me look at the records, and I will tell you very quickly whether I can tell you or not.

“(The documents referred to were handed to the witness.)

“A. Apparently, you are more of a bookkeeper than I am. What I am trying to find out is the

(Deposition of Jacob M. Danziger.)

journal for the entry on these two transfers into Winslow's name.

"Q. You will recall when you were here previously I told you those records were incomplete. That is one of the respects in which it is incomplete, so far as I have been able to tell. [537]

"A. Then have I ever given you——

"Q. Wait a minute. Now, don't begin asking me questions.

"A. But this is leading up to this: if I have ever given you the two certificates cancelled in Winslow's name, No. 236 and 241, it may be that those two certificates will show to whom they were transferred. Or, I will look through all of the stubs and see if I can find from whom the transfer—to whom those certificates may have gone that were transferred.

"(Thereupon certain documents were handed to the witness.)

"A. (Continuing): That is issued. No, what I mean, have you any cancelled—did I give you any cancelled stock certificates at all? Have you got any cancelled stock certificates?

"Q. No.

"A. Then if you haven't got them, I have them in the office. I will find the stock certificates in Winslow's name, No. 236 and 241, and it may be that in there we will find to whom they were transferred.

"Q. May I have all of the cancelled certificates that you have in your office?

"A. Yes. I will give them all to you. Now,

(Deposition of Jacob M. Danziger.)

there is another way. You asked me how one could determine. There is another possible way to determine [538] to whom those certificates went. On the stub I have filled out from whom transferred, if I happened to have it, and the person to whom it was transferred. If the stub was filled out, that would show. But we will find to whom those certificates were transferred, because they weren't returned to the company and cancelled. Now, they had to be transferred to somebody, and I will guarantee there was no entry made here that the foundation doesn't exist for. Now, I may make errors in bookkeeping, but that can't be an error.

"Q. I show you a cancelled check dated December 16, 1940, in the amount of \$1500, drawn by Elizabeth T. Parsons on The Miners National Bank of Pottsville, to the order of the Wake Development Company. Did you receive that check from Mrs. Parsons?

"A. That check evidently was received by Wake Development Company and deposited to its credit in the Bank of America. It has its rubber stamp endorsement.

"Q. What was that payment in consideration for?

"A. Well, I would have to take the correspondence and determine the fact through the correspondence.

"Q. That was last December——

"A. Something that she sent in.

"Q. ——less than six months ago, and \$1500.

(Deposition of Jacob M. Danziger.)

“A. It is in 1940, isn’t it? December, 1940?

“Q. Yes. [539]

“A. Is there nothing——

“Q. I would rather have you testify about it, Mr. Danziger.

“A. Well, I don’t know. I can’t answer your question until I can check into the correspondence files of some character.

“Q. Well, surely \$1500 is a big enough item for you to pay attention to.

“A. Absolutely, absolutely.

“Q. And you have no memory as to what it was for?

“A. Evidently, she sent it in. What it was for, I don’t know. If there was a letter of transmittal came with it, it would tell what it was for.

“Q. Did she purchase stock?

“A. No. There is no stock issued to her, and there is none owing to her. We have no stock issues subsequent to the date of the—if you will let me look at the bunch of stubs we had here a while ago——

“(The documents referred to were handed to the witness.)

“A. There is no certificate to—well, that is 1941. The last certificate that was transferred was 226. It was split up with six to Edward Danziger, certificates 221 to 226, that were issued on 4-9-41. Then there was a certificate—what is the date of that check? [540]

“Q. What is it you are trying to tell?

(Deposition of Jacob M. Danziger.)

“A. What I am trying to do is to give you a list of all certificates issued since the date of the check, and to show you none have been issued to Mrs. Parsons. That answers whether any stock was issued to her.

“Q. It is merely necessary to answer the question.

“A. Then I will answer the question, from an examination of my certificate records, and say to you that no stock—we sold her no stock for that money and no stock was issued to her for that.

“Q. Did that \$1500 just come to you out of the blue? A. No.

“Q. It was in connection with some business transaction, was it?

“A. It was an outgrowth of the Aronson business.

“Q. What do you mean by an outgrowth?

“A. Well, it was one of the elements of the business that Aronson had apparently done with her.

“Q. What did you do with the \$1500?

“A. Put it in the Wake Development Company; deposited it to the bank account.

“Q. Did you spend it?

“A. The Wake Development Company—well, I guess its present balance is \$15 or \$20, something like that. [541]

“Q. Did you spend it without knowing what the \$1500 was for?

“A. No. Evidently she must have in some fash-

(Deposition of Jacob M. Danziger.)

ion indicated who sent it in. There must have been some letter of transmittal with this.

“Mr. Mainland: I will introduce this check as Commission’s Exhibit 21.

“(The check referred to above was marked Commission’s Exhibit No. 21, and was received in evidence.)

“By Mr. Mainland:

“Q. Mr. Danziger, the exhibits introduced during the last few minutes show that Wake Development Company received at least \$4810 from Mrs. Parsons during 1940. You testified that the transaction which you now say had outgrowths from the Aronson deal involved 500 or 600 dollars. Could it be possible that you would make as big a mistake as that?

“A. Now, I didn’t say that. You asked me—we had in front of us a certificate or evidence of a sale to Mrs. Parsons of five or six hundred shares, a sale to Aronson in which he was doing his business with Mrs. Parsons, and you asked me at that time how much money that brought, and I said five or six hundred dollars. That was my best recollection.

“Q. Was the only consideration you gave Mrs. Parsons the certificates which were issued in her name? [542]

“A. The Edwards certificates, my recollection is, ultimately went to Mrs. Parsons. -

“Q. What did Aronson tell you about the Edwards’ certificate?

(Deposition of Jacob M. Danziger.)

"A. Well, he had some kind of involvement there. What it was, I don't know. My recollection is something about she had been promised some certificates from Edwards when the original deal was made between Winslow and her, and she didn't get them, or something of that character.

"Q. Did you ever have a telephone conversation or conversations with Mrs. Parsons?

"A. Never.

"Q. Did you call her up long distance?

"A. Never.

"Q. Have you ever met her? A. No.

"Q. Did you ever have a telephone conversation with Edwards in connection with the Parsons' transaction?

"A. I don't remember ever talking with Edwards at all on any subject.

"Q. Did you ever receive a wire from Edwards?

"A. No, I don't remember of ever having a communication from Edwards.

"Q. I refer, specifically, to a wire which you received on June 18, 1940. [543]

"A. No. I had no wire from Edwards. I don't remember ever receiving a wire from Edwards.

"Q. Did you receive a wire signed 'Edwards?'

"A. Not to my knowledge.

"Q. Did you receive a wire signed 'O. T.?'

"A. When?

"Q. In December, 1940.

"A. No, I don't remember ever receiving a wire

(Deposition of Jacob M. Danziger.)

“A. I haven’t deliberately withheld any correspondence, any of Mrs. Parsons’ correspondence.

“Q. Well, let it be understood here and now that the Commission has requested you to produce all correspondence had with any of your stockholders, or any persons you had anything to do with, affecting their transactions.

“A. Well, I have given you everything that I have found on that subject, Mr. Mainland.

“Mr. Mainland: I will introduce this check as Commission’s Exhibit No. 22.

“(The check referred to above was marked as Commission’s Exhibit No. 22, and was received in evidence.)

“By Mr. Mainland:

“Q. I think, in view of the fact that you have [546] so many things to look up in your files, that we will have to continue this one more time.”

Mr. Lucas: At this point, may I now offer this in evidence, as government’s exhibit next in order, it consisting of a letter on the letterhead of Wake Development Company, dated May 2, 1940, and signed Wake Development Company by P. Beveredge—I call that to your particular attention, and we will get it in a moment; a letter on the letterhead of Wake Development Company, dated May 15, 1940, the signature of which was acknowledged in the course of the reading by Mr. Danziger; another letter, February 8, 1938, which was acknowledged, I believe, in the transcript, as being the true signa-

(Deposition of Jacob M. Danziger.)

ture of Mr. Danziger; another letter dated August 10, 1940, which the reading shows was signed by Mr. Danziger with the name C. Postal; and the check on The Miners National Bank in the sum of \$157.50, paid to Wake Development Company, and which Mr. Danziger acknowledged in the transcript as having received and deposited; and ask that they all be received and accepted in evidence as the government's exhibit next in order as one exhibit.

The Court: Mr. Mainland will have to identify them.

Mr. Rose: No, your Honor, there won't be any necessity for that. I am satisfied that these are the letters referred to in the course of the transcript. I am not objecting to their introduction. [547]

The Court: What was your comment about Beveridge a moment ago?

Mr. Lucas: That letter, if the court please, which I called to counsel's attention, particularly, my recollection of the reading of the transcript was that Mr. Danziger didn't recognize that as his handwriting. It is our contention, of course, that it is his handwriting, but he says he had a secretary here, and that it might have been her handwriting. At any rate, he acknowledges that he had a secretary. We contend that it is Mr. Danziger's handwriting. If it is in evidence, I don't think it makes great deal of difference as to responsibility, whether it is in his handwriting or that of his secretary.

(Deposition of Jacob M. Danziger.)

The Court: Do you deny he had a secretary named Beveredge?

Mr. Lucas: We don't deny he had a secretary by the name of Beveredge. Our contention is that it is his handwriting.

The Court: Or that he had a secretary named Postal?

Mr. Lucas: No, he didn't have a secretary by the name of Postal that we know of.

Mr. Rose: That isn't what the court is asking you. Do you contend that there wasn't any such thing?

Mr. Lucas: We know of none.

Mr. Rose: Just a moment. I would like a response from you, counsel, to his Honor's question. And if I [548] understand the question it is: Do you contend there was no such person, or is it merely surmise on your part?

Mr. Lucas: I can't answer the court's question.

Mr. Rose: Your Honor will note here that there is no question that Danziger personally signed it and it has "By" below it. It was typed out "By" and "Postal, Secretary" is below it. But above it is Danziger's personal signature.

The Court: Put the letters in evidence, then.

Mr. Rose: Yes, your Honor, there is no objection.

The Clerk: 85.

(The documents referred to were marked as Government's Exhibit No. 85, and were received in evidence.)

(Deposition of Jacob M. Danziger.)

The Court: Go along until 10:15, please. I have an appointment with Judge McCormick, and it will help me out if you go along until then.

Mr. Lucas: Yes, your Honor. That is all of the transcript in that transcript, and it was continued until Monday morning, June 16. So the next and last transcript starts with testimony taken on Monday, June 16th, before the Commission.

(Thereupon, counsel continued reading as follows:)

“Proceedings.

“Mr. Mainland: We will resume the hearing.

“Whereupon, Jacob Danziger, was produced as a witness for and on behalf of the Commission, and having been previously duly sworn, was examined and testified further as follows: [549]

“Direct Examination

“By Mr. Mainland:

“Q. You have brought some of the things with you that you promised to bring during the last session?

“A. I have. First, I haven't exhausted all possibilities of search for some stock that somebody sent in. I forgot the name of it, but not Great Eastern stock; some certificates. I have searched part of the file for them, but I still want to search further before I say I can't find them. Now, you asked for all the certificates that have been trans-

(Deposition of Jacob M. Danziger.)

ferred, which I have here. Among them, those certificates, I find that letter from Mrs. Parsons.

“(Document passed to counsel.)

“Mr. Mainland: Mr. Danziger has handed me a letter on the letterhead of Mrs. Frank B. Parsons, signed Elizabeth T. Parsons, dated June 16, 1937.

“The Witness: Now, the other day when you asked for the certificates that had been transferred, it came to the time when we were looking at Mr. Winslow's account, and there was some transfer shown in the account. If I remember correctly, you seemed to think there wasn't any substantiating data for that particular entry. Among those cancelled stock certificates that I am handing you there is one, No. 236, for 200 shares [550] in the name of Arthur Winslow. I can't compare it with the stock book entry that we were looking at, because I haven't got it, but I think it represents those.

“(Document passed to counsel.)

“Mr. Mainland: Mr. Danziger has handed me”——

Mr. Rose: Just a second. Mr. Lucas you read “Document passed to counsel.” I noticed that a number of times. Is there some counsel supposed to be present there?

Mr. Lucas: We will have to ask Mr. Mainland.

Mr. Rose: This is the first time I have run into that in this record. Was there some counsel there?

Mr. Mainland: I think the reporter must have assumed that I was an attorney.

(Deposition of Jacob M. Danziger.)

Mr. Rose: Oh, I see. I was wondering who that was. From what I have seen here, you have done a lot better than many of them.

Mr. Lucas: I hope present company is excepted, Mr. Rose.

(Thereupon, counsel continued reading as follows:)

—"a group of stock certificates and preferential profit-sharing notes of the Trinidad International Petroleum, Ltd.

"Q. Are these certificates the cancelled certificates that you have been able to find in your files?

"A. Yes, they are all cancelled certificates and [551] they are all we have in our file, and I am sure they are all the certificates that have been cancelled.

"Mr. Mainland: I will introduce these as Commission's exhibit next in order."

Mr. Rose: While we are on that point, you will remember, Mr. Lucas, you offered in the large manila envelope all of those certificates, and his Honor marked them—they are not in evidence, they are for identification; while we are on this point, what is your disposition, do you want to offer them or what?

Mr. Lucas: We are now referring to stock certificate Exhibit 74, for identification.

Mr. Rose: 73, isn't it?

Mr. Lucas: Yes, 73.

Mr. Rose: There is no objection to that, your Honor.

(Deposition of Jacob M. Danziger.)

Mr. Lucas: I now, then, offer them formally in evidence as the government's Exhibit 73.

The Court: They are admitted.

(The documents referred to were marked as Government's Exhibit No. 73, and were received in evidence.)

The Court: We will recess until about 10:30.

(A short recess was taken.)

(Thereupon, counsel continued reading as follows:)

"The Witness: By the way, then I find another stock journal which you apparently have not among the stock journals that you have. I think it goes back to [552] the original issues of the company. You haven't asked for that specifically, but I would like you to have it with the others.

"Mr. Mainland: I am glad to get this journal, and I will introduce this as Commission's Exhibit 24. I will look it over later.

"(The document referred to was received in evidence and marked Commission's Exhibit 24.)

"The Witness: Then you asked for the Wake Development Company's 1940—a copy of their income tax return. I have it here. It is a pencil copy filled in by myself.

"By Mr. Mainland:

"Q. Where was the return filed?

"A. I will tell you in a moment. A typewritten copy was made, signed, and filed in Wilmington,

(Deposition of Jacob M. Danziger.)

Delaware, the state of its incorporation and where the company always filed its returns. Now, apparently in 1940 the regulations did not require the setting out in detail of asset sales as it did in the prior year, and this does not set out the detail of the sales. But I have here, which I am submitting to you, the sheet marked Schedule C, which we filed with our 1939 return, when apparently we were required to do so. On the bottom of that sheet in my handwriting is a reference to the details of the 1940 sales that made up the [553] return. They are not detailed in the 1940 copy which I am handing you. I would like to file that with you as substantiating data for the 1940 return.

“(Handing document to counsel.)

“A. (Continuing): That would enable me to answer another question that you asked me the other day.

“Q. I presume your last statement refers to some question I asked you about either the Elizabeth Parsons or the W. E. Edwards sales before 1940.

“A. You asked me how much of the money Wake Development Company kept. I told you I couldn't answer offhand and I would get it in some records. The records would indicate that we got \$1950 out of the amount of money that was sent in by Mrs. Pierce.

“Q. You mean Mrs. Parsons?

“A. Mrs. Parsons. The name confuses me.

“Q. Wake Development kept \$1950?

(Deposition of Jacob M. Danziger.)

“A. Yes, sir. Now, while you are on that subject, I have brought with me what we call records of the company, the check stubs of the check book, which is about the only records of the company that the Wake Company kept that covers that period. I can't find anything in those records that gives me the cue as to how much money was kept. There is not much data entered up on the stubs any more than the amount of money that was deposited in the bank account of the [554] company. And in response to your subpoena I have also brought the check book of the company, which is the only records it still keeps of its business since 1940. That book is our current check book and if you remember, you have seen it before. I don't want to leave it unless you insist upon it because, as I say, it is our current book. It would be perfectly convenient if you would like to take it to look over and give it back in the next day or so. That would be all right. You might want to get more up to date than you were when you last saw it, and I have no objection to your doing so, Mr. Mainland. I also have brought with me the bank deposit book of the Wake Development Company, in which the first entry is July 12, '38, and to avoid making any of those three books a part of your permanent records, especially the pass book and the current check book. The old stub book, I probably won't have any occasion to have use for again immediately, but of course I presume I will get back all of these original records.

“Q. Suppose we defer a decision on what dis-

(Deposition of Jacob M. Danziger.)

position we will make of those books until a little later in our examination this morning. Then we will decide. We will try not to keep those things, if you prefer to have them back.

“A. That is agreeable, Mr. Mainland. [555]

“Mr. Mainland: I will introduce the pencil copy of the tax return which Mr. Danziger has testified was filed in Wilmington, Delaware for the year 1940 as Commission’s Exhibit 25-A, and I will introduce the schedule headed ‘To accompany Schedule C, Sales of Trinidad International Petroleum, Ltd. Stock’ as Commission’s Exhibit 25-B.”

Mr. Rose: May those exhibits come in now?

Mr. Lucas: I believe that is a part of Exhibit 75, Mr. Rose. We have not yet offered the tax return, but Schedule C referred to there, and the list of stockholders, I believe, is 75.

Is it in evidence, Mr. Clerk?

Mr. Rose: You are in error. That is an entirely different thing. These are income tax returns.

Mr. Lucas: We haven’t offered them. If you find them, Mr. Mainland, we will offer them right now.

Mr. Rose: I thought we would save time. I will have to cross examine him about it, and if you put them in now we have that thing over.

Mr. Lucas: I show you, counsel, a blue from “United States Corporation Income Tax Return for 1940.”

I now offer it in evidence as the government’s exhibit next in order.

(Deposition of Jacob M. Danziger.)

Mr. Rose: Have you got 25-B, too, Mr. Mainland?

Mr. Mainland: 25-B is in as Exhibit 75. [556]

Mr. Rose: Have you got it?

Mr. Lucas: That is marked in evidence, to accompany the schedule.

Mr. Rose: At the time that went in there was no preliminary testimony, so we didn't know what it was. Is that clear to your Honor, that this list here was attached to the '39 Wake Development Company income tax return?

The Court: Whatever you two agree on may go in by stipulation.

Mr. Lucas: That is in evidence, however, is it not, Mr. Clerk?

Mr. Rose: Yes, but there wasn't any testimony as to its nature, or what it was purported to be.

The Clerk: Exhibit 86.

(The document referred to was marked as Government's Exhibit No. 86, and was received in evidence.)

Mr. Rose: Have you got the 1939 income tax return?

Mr. Lucas: Mr. Rose, I believe we have it. It is not included and made a part of the detailed report filed by Mr. Mainland with the Securities and Exchange Commission. It is our position that we didn't receive it from Mr. Danziger; but if we can find it we will be happy to give it to you.

Mr. Rose: There is some mention made of it here.

(Deposition of Jacob M. Danziger.)

Mr. Lucas: If there is some mention made of it, it doesn't indicate we received it. I think the witness talked [557] about it. But if we can find it, we will be happy to give it to you and offer it, so far as that is concerned.

(Thereupon, counsel continued reading as follows:)

“Q. You will recall, Mr. Danziger, that last Monday I asked a good many questions concerning the purchase of stock during 1940, which you testified was made by Harry Aronson and the certificates were issued in the name of Mrs. Elizabeth T. Parsons. I think you also testified that stock certificates subsequently issued to W. E. Edwards had some connection with that transaction, and also that sums of money received by Wake Development Company from Mrs. Parsons during the latter part of 1940 were as a result of or an outgrowth of that transaction. Is that your recollection?

“A. That is correct. I said my impression was that the Edwards stock deal was connected with the Pierce—Parsons transaction.

“Q. Have you refreshed your memory about that transaction since the last meeting?

“A. I have somewhat. First, the letter from Mrs. Parsons, which I have given you here, which I find among our cancelled certificates, has some reference to Mr. Edwards, and my present recollection is that Aronson told me something about Mrs. Parsons not having received some stock from Edwards, who [558] apparently had something to

(Deposition of Jacob M. Danziger.)

do with the original transaction with her some years before. My recollection is that he wanted a part of his purchase in the name of Edwards”——

Mr. Lucas: Do you think that word “he” should be “she”?

Mr. Rose: No, I think it is “he”; the antecedent is “he”.

(Thereupon, counsel continued reading as follows:)

——“and he wanted them postdated; that I gave him those certificates”——

Mr. Lucas: You mean the antecedent of that “he” is Aronson?

Mr. Rose: I think so.

(Thereupon, counsel continued reading as follows:)

——“that I gave him those certificates at the time that he was here; and he came here—well, I am volunteering now. That is the statement that is in response to your question.

“Q. I will be glad to have you volunteer anything which will help clear the matter up.

“A. Well, I was going to give you my best recollection of the financial transaction when he was here.

“Q. That is what I want.

“A. He came here——

“Q. You are talking about Aronson?

“A. Aronson. —ahead of the time Mrs. Parsons’ [559] check came in. I can remember him

(Deposition of Jacob M. Danziger.)

coming in two or three days to get mail, and this check, the first check from her, followed him here, and my recollection is that I gave him all that, the returns from that check; how much it was, I don't know. I haven't checked back to see what the first Pierce check was—Parsons. I keep referring to Pierce. There was another early transaction with an Elizabeth Pierce that Mr. Carmen had, you may remember, some difficulty over it. The two names have been confused in my mind very frequently because they are both Elizabeth, I guess.

“Anyway, my impression is that I gave him at that time all of that check; and I think subsequently that on some payment coming in that I sent him in money because I know—I remember having written to him care of that firm by the name of Worth on the end of it, somebody on East 42nd Street, people that he used to work for; and I sent him some money at one time.

“Q. During 1940?

“A. During 1940. I worked out this income tax when the situation was fresher in my mind than it is at the moment that income tax figure there of \$1950.

“Q. I hold in my hand a check to the Wake Developmmt Company for \$1370, drawn on the Miners National Bank of Pottsville by Elizabeth T. Parsons, the date of the check is May 1, 1940. The endorsements indicate that the check was deposited in the Bank of America at [560] 4th and

(Deposition of Jacob M. Danziger.)

Spring for collection by the Wake Development Company.

“A. How much is it, Mr. Mainland?

“Q. The check is for \$1370.

“A. And the date again?

“Q. The date of the check is May 1, 1940, but it appears to have been deposited with the bank for collection on May 3rd and collected about the 6th.

“A. Well, what is your question? You have made a statement now.

“Q. Is this the check the entire proceeds of which you said you paid to Harry Aronson?

“A. Well, if that is the first check that came from her in 1940, then I would say it is.

“Mr. Mainland: I will introduce this check as Commission's Exhibit 26.

“(The document referred to was received in evidence and marked Commission's Exhibit 26.)

“By Mr. Mainland:

“Q. Do you remember, Mr. Danziger, whether the note for \$940, which was introduced as Commission's Exhibit 18, was executed by Mrs. Parsons in connection with the transaction involving the \$1370?

“A. Well, if you prefer me to—give me the date of the letter in which I sent the note to her. Then I can tie it in a little more definitely. I haven't [561] any independent memory of it as to date. I

(Deposition of Jacob M. Danziger.)

know there was a note, but you had some correspondence where I prepared the note and sent it to her.

“Q. All right. Commission’s Exhibit No. 16 is a letter to Mrs. Parsons acknowledging receipt of the \$1370. It is dated May 2, 1940.

“A. Does that letter have reference to a note?

“Q. There is no reference to a note in this letter.

“A. Well, there is some letter that has reference to a note.

“Q. Commission’s Exhibit No. 17 is another letter to Mrs. Parsons, dated May 15, 1940, enclosing 600 shares and 600 note units of Trinidad, and stating that the final payment of the total amount due is \$940, and refers also to the fact that Wake has prepared a note for this amount and dated it for settlement on June 15, 1940.

“A. That being very shortly after the receipt of the check, I would say that the check and note were part of the same transaction.

“Q. Was there still a further provision to that transaction?

“A. Well, Aronson told me that there would be some further remittances come from her at a later date.

“Q. Did he give you instructions as to disposition of the proceeds? [562]

“A. There was a portion of it yet to come to him. That is my best recollection of it.

“Q. Were any of the proceeds or any portion

(Deposition of Jacob M. Danziger.)

of the proceeds yet to come to be retained by Wake Development Company?

“A. Yes. We did retain, in fact, most of the money after that. I think we got at least \$1950, retained \$1950.

“Q. Did you retain no more than \$1950?

“A. No. That is what my records tell me, and I haven't any independent recollection aside from what I find in my papers.

“Q. Do you remember that Wake retained \$1950?

“A. I remember that my records show that.

“Q. And do you remember that anything that your records show in addition to the \$1950, you transmitted in some way to Harry Aronson?

“A. I have a very positive recollection of giving him money when he was here, or its equivalent, and I have an impression of sending him something subsequently.

“Q. You are sure it was Harry Aronson?

“A. Yes.

“Q. Did anyone else get a portion of those proceeds?

“A. Well, the Wake Development Company spent the money in some fashion, so other people got—if you want to earmark the money in that way, why, you would [563] say—Wake still doesn't have the money today, in other words.

“Q. Did you send an portion of the proceeds to Edwards?

(Deposition of Jacob M. Danziger.)

“A. No, I don’t remember ever having contact with Mr. Edwards.

“Q. Did Aronson state to you that any portion of his funds were to be sent to Edwards?

“A. No.

“Q. Do you now have any knowledge of Edwards’ true identity?

“A. I assume that Edwards is Edwards. I don’t know anything to the contrary. His name figured in the very early transaction with Winslow, way back in—when was it—’37, I guess, and it figured with Aronson. I made no inquiry of anybody as to whether Mr. Edwards was Mr. Edwards or somebody else. I had no occasion to.

“Q. The evidences of payment of funds to Wake Development Company by Mrs. Parsons, which was introduced at the last session, indicated that Mrs. Parsons had paid to Wake Development Company during 1940 \$4,967.50. If, as you stated, Wake Development Company retained only \$1,950, remitting the balance to Harry Aronson, it would appear that Harry Aronson actually obtained \$3,017.50? [564]

“A. Approximately \$3,000 out of nearly five, something of that kind.

“Q. Does that agree with your knowledge of these transactions?

“A. Well, I haven’t enough knowledge in my memory as to the exact dollars. There were hardly any two of those transactions that were on the same basis. Aronson came in and he negotiated the

(Deposition of Jacob M. Danziger.)

best he could, and the price was not the same price necessarily that I got at some other time. So I haven't any fixed schedule of price to go on.

"Q. How many times during 1940 did Aronson come to Los Angeles?

"A. Only once I know of.

"Q. Did he correspond with you?

"A. I don't have any recollection of any letters during that year, unless they were in that Aronson file. My impression is that they were older than that.

"Q. At the time that Aronson came to see you in May, 1940, did he inform you of the exact amount that would be sent to you later on in the year?

"A. Well, my impression is that he gave some figure of what he expected would come.

"Q. At that time did he tell you what to do with the funds as they came in to you?

"A. Well, he had some money coming to him and must [565] have told me how to send it or where to send it, because I have an impression of having sent him some money outside of what he got when he was here.

"Q. How did you send it?

"A. I don't know; I could have sent it in many different ways.

"Q. Did you mail a check through the Wake Development Company?

"A. No. That, I am sure, did not take place because there is no—nothing in our stubs that would

(Deposition of Jacob M. Danziger.)

indicate it. We never wrote any checks that didn't go through the check book.

"Q. Did you send him money by postal money order?

"A. It could be that way. I have had occasions in recent years to send money by postal money order and I have occasions when I have used—bought a bank cashier's check. I have occasions when I bought a draft on New York. It might have been sent in any one of those ways. The detail of the method doesn't stay in my mind.

"Q. If a check came in from Mrs. Parsons today, how would you transmit the funds to Mr. Aronson?

"A. Well, I couldn't get any money on a check that came in from Mrs. Parsons till after the check had been cleared.

"Q. Let's assume that you put the check through [566] for collection and it cleared; then you have the funds free to do what you want with them. What would you do?

"A. What would I do? I would go and draw the money and take it. I could do it that way. I could draw the money in cash and do what I wanted with it.

"Q. Did you have any usual way of handling the funds that came in?

"A. Whenever we got any money in the bank, as soon as we got a credit substantially all of it was taken out in cash.

"Q. Then any funds you sent to Harry Aronson

(Deposition of Jacob M. Danziger.)

were transmitted after being converted from currency, is that correct?

“A. Yes, they would be cashed. The Wake would convert its check into cash before I could send the money to anybody.

“Q. Do you remember any occasions during the last six months of 1940 on which you purchased bank drafts or cashier's checks?

“A. I frequently purchased at the Bank of America, our bank, with cash—I frequently purchased what they call cashier's checks or money orders, generally made to myself as my——

“Q. (Interrupting): Did you purchase checks or drafts from any other bank during that period?

“A. No, sir. I never had any occasion to go into any other bank.

“Q. Do you recall any occasion when you purchased a Western Union money order?

“A. I recall occasions when I have, but not at that particular time. I bought a Western Union money order the other day.

“Q. At which office did you buy that?

“A. I bought a Western Union order since this last hearing at the 4th Street office, 4th between Spring and Main, the Western Union. And I can remember buying — transmitting money by that same office at other times.

“Q. Did you ever mail currency through the mail?

“A. I may have, some very small amount. I

(Deposition of Jacob M. Danziger.)

don't think I would ever mail any substantial amount.

“Q. Did you mail any currency to Harry Aronson?

“A. I don't think so. I don't believe that I mailed currency for over ten or twenty dollars.

“Q. You don't think you would be that foolish?

“A. Well, I wouldn't think it would conform to what I feel would be fairly safe conduct.

“Q. When you transmitted funds to Harry Aronson did you obtain a receipt for them?

“A. No, I didn't get a receipt from him?

“Q. Is there any way that you could come to a more [568] positive recollection of these matters?

“A. There isn't. I don't visualize the transaction. I can only say what I would very likely have done, how I would likely have done something.

“Q. Any funds that you sent to Aronson did you send to him care of Brockworth & Company, New York?

“A. I think that's the name. I think that is the only address I had from him.

“Q. I think you testified last week that you had no address for Aronson.

“A. Well, I said the only addresses I had were those that appeared in some correspondence that I gave to you.

“Q. Here is a correspondence file, a company file, which you turned over to me some time ago.

(Deposition of Jacob M. Danziger.)

(Passing document to the witness) Do you recognize that file as having come from your Wake Development correspondence file?

"A. Yes, it is part of our file. I recognize that.

"Q. The name of the person with whom the correspondence was had is Mr. F. A. Russell, 119 Merriam Avenue, Leominster, Massachusetts. The correspondence reveals, does it not, that F. A. Russell sent in a check for \$350 as a ten per cent deposit for the purchase of Trinidad securities which were to cost [569] \$3,500, and that he was to surrender 10,000 shares of South MacKenzie Island Mines, Ltd. as part of the consideration for the Trinidad securities? Is that correct?

"A. Yes, sir, according to the correspondence.

"Q. Does the correspondence also indicate that under date of December 2nd Mr. Russell wired as follows: 'Have decided I am not interested to transfer South MacKenzie Island stock for Trinidad Petroleum stock. Kindly return check as per your letter.'

"A. I take it that you are reading correctly from the telegram in your file, Mr. Mainland.

"Q. Do you remember the occasion?

"A. No, I don't remember it at all, except that the correspondence may refresh my memory."

Mr. Rose: By the way, while this pause is here, Mr. Lucas, there is some reference made to a file having been turned over to Mr. Mainland at this stage of the discussion involving Aronson. I would

(Deposition of Jacob M. Danziger.)

like to take a look at that Aronson matter, to clear up whether Aronson is Aronson or not.

Maybe we can save time, Mr. Mainland, if you discuss with Mr. Lucas whether in the course of your investigation you checked up that there was an Aronson and he did have some transactions——

Mr. Lucas: I will cover that when Mr. Mainland gets [570] on the stand.

Mr. Rose: Very well.

The Court: What are you going to claim by Aronson?

Mr. Lucas: We are going to claim, one of the things, that he was never in Los Angeles as indicated in this testimony.

Mr. Rose: As indicated where?

Mr. Lucas: That he was not in Los Angeles at the time and places indicated in this testimony.

The Court: What else are you going to claim? Who was Aronson?

Mr. Lucas: As long as Mr. Mainland has been sworn, I will let him answer. I am not familiar with the entire detail of it.

ALLEN G. MAINLAND,

called as a witness by and on behalf of the plaintiff, having been previously duly sworn, resumed the stand and testified further as follows:

(Testimony of Allen G. Mainland.)

Direct Examination (Resumed)

By Mr. Lucas:

Q. Will you answer the court's question to the best of your ability as to what the investigation showed as to Aronson?

A. Harry Aronson is an individual.

Q. Did you meet and talk with him?

A. I did not. A representative of the Commission [571] took sworn testimony from him, and satisfied me that he was Harry Aronson.

Q. Is that sworn testimony taken by some other representative of the Commission available in our files here in Los Angeles now, that you know of?

A. The sworn testimony is in our files; the individual who took the testimony is not here.

Q. But the sworn testimony is? A. Yes.

Q. It is here in Los Angeles rather than at some place of the Commission? A. Yes.

Mr. Rose: Just a moment. For the record, I don't want the court—I didn't interpret the court's query to open up the door here so that we can now get into some sworn statements or affidavits or matters of that kind made by Aronson; I merely wanted to identify your Honor, there is such person, and if possible, the fact that he had transactions with the Wake Development Company, and that he is in the stock selling business. That is the only thing I wanted to develop.

Mr. Lucas: We will stipulate, in response to your query, that he had two transactions with the

(Testimony of Allen G. Mainland.)

Wake Development Company back in 1934 or 1935, and never any since those years.

Mr. Rose: No, I am not accepting any such stipulation. [572]

Mr. Lucas: You made the inquiry, and I can only answer it.

Mr. Rose: I just want to know if he is in the stock selling business, and whether he had business with Wake, that is all. I am not going to go into the collateral matter of his transactions.

Mr. Lucas: I will state for the record, that if Mr. Mainland does find that sworn testimony—I have not seen it myself—I will read it and examine it and show it to Mr. Rose.

Mr. Rose: Very well. Sorry that I caused this long lapse, taking up the time, your Honor; I thought while we were at it we might as well clear that thing up, you see, since the inference here is now that everybody by certain names isn't anybody at all. I thought we might as well clear up that Aronson is Aronson, at least.

(Witness excused.)

(Thereupon, counsel continued reading as follows:)

“Q. I refer you now particularly to a carbon copy of what purports to be a Western Union telegram, dated December 2, 1938, and addressed to George Carleton, Hotel Willard, 76th Street and

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West End Avenue, New York. It states: 'Leominster wires quote decided not interested in transfer of stock. Kindly return check as per letter unquote. Advise. Mack.' Have you any idea what that wire means, if it is a [573] wire?

"A. Well, it is a telegram that was sent by my sister, Mrs. Faulkner. She frequently signed telegrams 'Mack'. It is evidently advising Mr. Carleton of the receipt of the telegram from Mr. Russell.

"Q. Who was Mr. Carleton?

"A. Well, I can only presume that he was some salesman or some sales contact of some character with the office. I don't know anybody personally by that name.

"Q. Was Mr. Carleton a representative of the Wake Development Company?

"A. Well, not in the sense that he was a salesman of the Wake Development Company. He was evidently somebody who — the year was '38? He probably was working with Mr. Winslow or for him or something of that character. I don't know I didn't have the detail contact with anybody that was carrying on that business for my sister through the office.

"Q. Would you say it was quite clear that Carleton was the contact man who was calling on Russell?

"A. Yes, I would think so. That would be my impression from the file.

"Q. Do you know of anyone who used the name George Carleton?

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“A. Is that the name there, George Carleton?

“Q. Yes.

“A. No, I don't know anybody aside from what your—I have heard the name before. I know there has been somebody in some of this business with that name, because this file brings it to my mind, but what Mr. Carleton's antecedents might be, I can't guess.

“Q. Do you know anybody you talked to by that name?

“A. I don't know of anybody by that name I met.

“Q. Have you ever corresponded with him?

“A. Not to my knowledge. There may be some letter in these files here from the office that I signed, but I just—the name doesn't peg itself in my mind any more than there was somebody with that name in some one of these transactions; probably more than one.

“Q. Did you ever exchange wires with him?

“A. I have no recollection of having done so. I may have.

“Q. If you received a wire from him, would you know from whom the wire came?

“A. Well, if I had a wire from somebody named Carleton at that time I would probably—my sister would open it and she would probably tell me what it was about.

“Q. Suppose you received one this morning. Would [575] you know who it is from?

Deposition of Jacob M. Danziger.)

“A. Well, I would presume it was from Carleton.

“Q. Did you have business with him?

“A. There has been some business with him in this series of transactions somewhere. His name figures there in that file, and I have an impression it does elsewhere.

“Q. What is your impression about Carleton?

“A. Well, my impression as to what?

“Q. What was his interest in this Leominster deal, for example?

“A. I presume he was somebody that in some way was working in connection with Mr. Winslow or in contact with him, because at that time, in that year, Winslow was handling old Great Eastern business.

“Q. Wake Development Company, however, communicated direct with George Carleton and not through Winslow?

“A. Apparently from that telegram, yes, and I think that was true in all instances. The Great Eastern was the company we dealt with originally, and then when they put men in to carry out their contracts, we were dealing with the individuals and not with the company as a company.

“Q. What steps did you take to safeguard yourself or your firm from unauthorized persons coming in [576] on this deal?

“A. Well, we had no—we took no precautions because anybody who came in to do business with us on the Great Eastern name or some name that

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didn't originate with us would probably have to have some contact with the Great Eastern concern, if it was one of their names, because we never had the Great Eastern list.

"Q. I mentioned, Mr. Danziger, this deal with F. A. Russell had nothing to do with Great Eastern.

"A. Well, if you remember, Mr. Winslow said he had a couple of mining companies and I think that—what is the name, South MacKenzie?

"Q. Yes.

"A. I think that is one of the names he had.

"Q. I feel I should call your attention at this point to a conversation you and I had in your office on February 4, 1941; another conversation on March 19, 1941, at which times you told me that the Golden Quebec deal was arranged by you with William Carman?

"A. I don't think I could have told you that, Mr. Mainland, because there is no—at the moment I don't have any such impression. My impression was that Winslow—the only time I met him, the time I was on my way home from Europe, either the day or the day after he had been brought into the picture by Mr. Carman—that he said something about having a couple of mining [577] lists, and I identify the South McKenzie and Golden Quebec—there may have been another one, I am not sure—as the things that he had on his mind. That is my impression, and if I gave you a different one I may have had a different impression at that time.

"Q. You would prefer, would you, to maintain

Deposition of Jacob M. Danziger.)

your present testimony that you had no conversations with Carman relative to Golden Quebec Mining Company?

“A. Yes, and I say that unequivocally because I am having in mind now the status of the Great Eastern deal with Carman. May I go on and elaborate why, or I can answer your question just yes and then stop there?

“Q. Go ahead.

“A. My recollection is that right after the Great Eastern deal was made, within a month, I went to Europe. Then after I had been there a time Carman got into some difficulty with Mrs. Pierce. He had a salesman by the name of Cramer. I cancelled his Great Eastern arrangement. They hadn't lived up to their contract and I could have done so perfectly legally. Then there was some wires back and forth and I finally rehabilitated him. And all of the business that I had with him after that was——

“Q. You are talking about Carman, are you?

“A. About Carman, yes. All the business that I had with Great Eastern and Carman was done by correspondence [578] from London up to the time I arrived back in New York. And there was nothing in the nature of the business that would have made it even good business for Carman to have taken on some other list. His Great Eastern list was still young and plenty of volume to it, and I can't imagine him talking to me about some other list. And my recollection is that Winslow spoke to me about it, but it was done at a time when I had

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a personal contact with Carman. My contact with Winslow and the last with Carman was very close there, within a couple of days. I may be mistaken, but I would have to see some records of some character that would make me change that present recollection.

“Q. I would like to read a few lines from testimony which your sister gave in a previous hearing held by the Commission, concerning the relationship between Carman and the Wake Development Company.”

Mr. Rose: Just a moment. Your Honor, I am going to object to that on the ground it is hearsay. I haven't even read it yet, but irrespective of that; it may even be to our advantage. I feel——

The Court: Is there much reference in there to the sister?

Mr. Lucas: About one page.

Mr. Rose: No. I have just seen three full pages, four full pages—wait a minute. [579]

The Court: We will pass over the references to the sister, for the present, and it may be that we will blank them out. I want to think about it.

Mr. Lucas: It is less than two and a half pages, your Honor.

Mr. Rose: I haven't read it.

The Court: I don't care whether you have or not. Pass them over. I may not want them in the case.

Mr. Lucas: For the reporter, we stopped at

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page 196, and we go to page 198, the excluded and passed testimony ending with the words, "that's right."

As I understood the court's remarks, we were excluding——

Mr. Rose: You are asking him about his sister's testimony, but the court has indicated to pass it.

Mr. Lucas: And I am passing it.

Mr. Rose: If you do pass it, you start on the first question on page 199.

Mr. Lucas: No. Do I understand the court that I am only to omit the quoted portion from Mrs. Faulkner's remarks that were read to Mr. Danziger?

Mr. Rose: All right, pick it up where you want to at 198. I don't see anything that is going to confuse anybody. "At the time of this testimony," pick it up there, please.

Mr. Lucas: All right.

(Thereupon, counsel continued reading as follows:) [580]

"At the time of this testimony, Mr. Danziger, you were in Europe. You have testified in this investigation that your sister handled the details of the sales and correspondence with various people, including Carman, and that you had correspondence back and forth with Carman from England?

"A. That is correct.

"Q. Did you know the general procedure by which your sister collected funds and paid the salesmen, including Carman?

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“A. Well, I knew that money would come in and that she would remit portions of it to whoever was entitled to it. Just how she did it, I wasn’t familiar with. She had the company’s bank account. She signed checks on it.

“Q. Aside from the occasion while you were in England, when you say you temporarily revoked the arrangement under which Carman was calling on holders of Great Eastern stock, was there any time when you changed your business arrangements with Carman?

“A. Well, you will have to repeat that question before I understand it clearly, Mr. Mainland. Reframe it.

“Q. I will reframe it. At any time after you came home from England, did you affirmatively alter the business arrangement with Carman under which he was calling on Great Eastern stockholders?

“A. Well, nothing more than he apparently signed off and turned it over to Winslow.

“Q. Did you at any time give him reason to think that on future sales of the Trinidad stock in which he was instrumental that you would refuse to pay him the customary \$200 out of each \$300 received?

“A. Well, there was no occasion for saying anything to him on the subject. He apparently was signing off and Winslow was going to handle the business on the same basis that it had been handled, although if I remember correctly he negotiated flat

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at that time for some stock which brought us less money.

“Q. Did you agree to give Winslow approximately \$200 out of each \$300 sent to Wake?

“A. I don’t recollect the details of the arrangement that was made with Winslow. He bought some stocks, bargained for some stock flat at a much less price than that to us.

“Q. You stated from your records, did you not, that they indicate that in July, 1937, three certificates were issued to Winslow, one for 200 shares, one for 200 shares and one for 3100 shares?

“A. I think that’s what the records show.

“Q. Do you intend to testify that the price which Winslow paid you for that stock was less than the amount at which Carman had been selling the stock to the public? [582]

“A. Yes. My impression was that we were getting a dollar and something. If out of three dollars Carman had been getting two, why, that left a dollar for Wake.

“Q. Yes.

“A. And I know that we didn’t get the \$3300 from Mr. Winslow at the time that stock went into his name; so the resulting figure must have been less. Exactly what it was, I don’t know. It was less than \$3300.

“Q. The gross amount Wake Development received would have been less than a dollar a share; is that correct?

“A. Yes, I am sure it was less than a dollar a

Deposition of Jacob M. Danziger.)

share. I haven't anything I can refresh my recollection from because my bank book doesn't go back that far.

"Q. Is it your recollection that that was not a commission deal but rather that you sold the stock as principal to Winslow?

"A. That is my recollection of it.

"Q. I show you a check drawn to Arthur Winslow, dated July 30, 1937, drawn on the Miners National Bank of Pottsville by Elizabeth T. Parsons, the amount of the check is \$7,000. It bears the endorsement Arthur Winslow and rubber stamp deposit endorsement of the [583] Wake Development Company. Does that check refresh your memory at all about the deal with Winslow?

"A. Well, it does refresh my memory that we cleared this check for him, but it doesn't—this was when I was in New York. But it doesn't change my recollection of the amount of money that we got out of the deal with Mr. Winslow.

"Q. If, as you say, Wake Development Company received less than \$3,300 for the stock sold to Winslow, what disposition did Wake make of the difference between approximately \$3,300 and the \$7,000 which the check was drawn for?

"A. It was probably given back to Winslow.

"Q. You have testified that you were in New York when you received this check from Winslow and that you sent it out by airmail to your sister in Los Angeles with instructions to collect it promptly?

"A. I don't remember testifying to that effect.

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It may have been what I did, but I don't remember testifying to it. May I look at this, Mr. Mainland?

"Q. Yes.

"(Witness examining document.)

"Q. Just so that there won't be any question in your mind, Mr. Danziger, about your testimony on that matter, I will read you very briefly from the transcript, inasmuch as you will not have a copy of your own testimony. I asked you the question 'How did he make [584] payment?' referring to Winslow. Your answer: 'Well, I don't know. I believe he must have given me a draft or a check, because I know it wasn't cash. I think——

"Q. Was it his own check?

"A. No, I don't think so, Mr. Mainland. I am not positive, but I have an impression of having sent that out to California, rushed it out for deposit, because that is what makes me know it was a check of some kind.'

"A. I am quite sure it is my testimony and it may be that that is exactly what happened. I don't know. At this moment I can't figure it out other than that is what happened, because that was given to me when I was in New York and I very likely sent it out to California for deposit, and the money was sent back to me in some form. And I gave Winslow in some form the greater portion of it. My recollection is that it was very much less than that."

Mr. Rose: Is that check in evidence, by the way?

Deposition of Jacob M. Danziger.)

Mr. Lucas: Yes, that is government's Exhibit—\$7,000 check, Government's Exhibit No. 11.

Mr. Rose: That is the Parsons' check, is it?

Mr. Lucas: Yes.

(Thereupon, counsel continued reading as follows:)

“Q. Did Winslow tell you what kind of a deal [585] he had with Mrs. Parsons, the maker of the check?

“A. As a matter of fact, he negotiated a deal with me and agreed upon the price and everything before he told me that he had a deal closed. As I remember, he was very cagey about it. He told me he had something he thought he could close and this and that.

“Q. Did Carman have a part in this deal?

“A. No, I don't think so; at least not in my presence, Mr. Mainland. He brought Winslow there one day and I had a meeting with Winslow that day, and the next day and the next day. I remember Carman wasn't present the next day. Now, what relations they may have had outside my presence, I don't know.

“Q. How did W. E. Edwards come into that deal?

“A. Edwards was somebody that figured in the deal somewhere with Winslow. I remember that. And I had confirmed it in my reading Mrs. Parsons' letter that I had here this morning, in which she mentions his name. Now, I don't know whether he

Deposition of Jacob M. Danziger.)

was associated with him in the deal or what the detail of it was.

“Q. I refer now to the letter which you have handed me this morning, signed Elizabeth T. Parsons, dated June 16, 1937. This letter states: ‘At the request of Mr. W. E. Edwards, I am forwarding seven shares of Trinidad Leasings and seven shares holding [586] certificates. Mr. Edwards desires you to change them and make them in my name Elizabeth T. Parsons, and forward to above address, 801 Mahantongo St., Pottsville, Pa.’

“What is Trinidad Leasings?

“A. I haven’t the faintest idea, Mr. Mainland. I found that letter among our cancelled certificates. I don’t find any certificate that apparently came with it. What is the date of that?

“Q. June 16, 1937.

“A. That couldn’t be—what is the date of the check?

“Q. Are you referring to Mrs. Parsons’ check?

“A. Yes. What is the date of that first check?

“Q. The date is July 30, 1937.

“Mr. Mainland: I will introduce this check of Mrs. Parsons as Commission’s Exhibit 27.

“(The check referred to was received in evidence and marked Commission’s Exhibit 27.)

“A. I don’t know. Apparently my impression was that the check was in the first transaction, but apparently from this letter, something came in. I don’t know what it is that she refers to.

Deposition of Jacob M. Danziger.)

“Q. Did you have any separate deal with Mrs. Parsons?

“A. I never had any deal with her at all. [587]

“Q. Did you have any separate deal with Mr. Edwards?

“A. No, I never met any Mr. Edwards.

“Q. Who was the intermediary between Mrs. Parsons, Mr. Edwards, and Trinidad International Petroleum in connection with this letter?

“A. It must have been Mr. Winslow.

“Q. But this letter is dated prior to the time you returned from England?

“A. I notice that, but I am not able to reconcile it. Of course, there is a possibility that it may have been misdated. I don't know. The facts are not in my mind at all. I am simply testifying what I find here in these papers.

“Mr. Mainland: I will introduce this for whatever it may be worth as Commission's Exhibit 28.

“(The document referred to was received in evidence and marked Commission's Exhibit 28.)

“Q. Last Monday, Mr. Danziger, you said you would attempt to locate correspondence received by you or by Wake Development during 1940 from Mrs. Parsons. Have you any of that correspondence with you?

“A. I don't find anything in our file excepting the letter that I have just referred to, dated June 16, 1937.

“Q. You recall, do you not, that you received

(Deposition of Jacob M. Danziger.)

[588] several letters from Mrs. Parsons during that time?

“A. I must have because the letters—my original replies which you submitted to me at the last hearing acknowledged receipt of letters from her. Therefore, I know I must have received them.

“Q. Do you think there is a possibility you could find letters if you looked further?

“A. Well, I am going to look further for some other things and I will continue to look. I have not been able to find anything either in the line of carbons of my letters to her or her letters to me. Of course, there is always a possibility that in the very inadequate——

“Q. Wherever they would be together.

“A. With the inadequate filing system we have, I am very apt to find something at any time.

“Q. You were to look up Miss Beveredge’s address. Have you done so?

“A. I didn’t understand you to say that you wanted me to, Mr. Mainland.

“Q. Would you mind looking it up?

“A. I will ask Mr. Andrews. He would be the one in the office that would know. I will ask him.

“Q. You filed the Social Security reports, did you not, covering her? A. Yes. [589]

“Q. Of course, under the Social Security Act a person filing those reports must maintain a record of the address.

“A. Well, sure. She worked in the office and her local address—I am quite sure we have it in the

(Deposition of Jacob M. Danziger.)
office, but after she left our employ—she took a leave for a while, sick leave.”——

Mr. Lucas: Do you want this in?

Mr. Rose: Forget it. We have this in.

Mr. Lucas: I will pick up on page 207 “Mr. Mainland: Let’s resume.

(Thereupon, counsel continued reading as follows:)

“Mr. Mainland: Let’s resume.

“Q. Toward the end of our last session a check for \$1,500, drawn by Mrs. Parsons to the Wake Development Company was introduced as Commission’s Exhibit No. 21. The date of the check was December 16, 1940. In view of your testimony today, is it your contention that that entire \$1,500 was returned to Harry Aronson?

“A. No, I wouldn’t think so. My impression is that we kept that check. I think he got the first check. I believe he got it all, and then there was some intermediate—but all I can do is take the records I have got. My mind is fairly clear that out of the transactions during the year that the \$1,950 is all the money that we got out of the business. Just how [590] much we kept out of each check or whether we gave it to him in installments—my impression is that we only sent him a payment once.

“Q. Was that around the time you got this \$1,500?

“A. I wouldn’t attempt to fix the time.

(Deposition of Jacob M. Danziger.)

“Q. And are you now able to state how the payment was sent?

“A. No, I am not, excepting by process of elimination. We did not send him a Wake check.

“Q. Will you refer to your check stub book, during the month of December, 1940, and tell me whether any sizeable checks were drawn to cash?

“A. Yes, a check for cash on the 12th, \$350; a check for cash on the 16th, \$20; on the 19th, \$10.00.

“Q. Don't read the small ones.

“A. What do you call small?

“Q. Anything less than \$100.

“A. On the 23rd there was a check to cash for \$1,130; on the 28th there was a check to cash for \$200. That is all.

“Q. Does your stub book indicate the date on which the \$1,500 check was credited to the Wake bank account by the bank?

“A. There is an item here of credit on December 26th, \$1,498.39. Very likely that is the amount less collection. [591]

“Q. In other words, the \$1,498.39 represents a collection of the \$1,500 check less the charges made by the bank in connection with the collection?

“A. That is my guess.

“Q. The date of that credit was December 26, 1940?

“A. December 26. And on the 26th there was a cash item here, \$200, that is marked E. W. D. That evidently was given to my wife. That is all in December.

(Deposition of Jacob M. Danziger.)

“Q. What was the date of the check to cash for \$1,130?

“A. \$1,130 on the 23rd.

“Q. Was that check for \$1,130 drawn against the funds from the \$1,500 deposit? If you don't know, don't attempt to determine it from the stub book because you have already testified that the stub is dated December 23rd, which is prior to the date of the deposit.

“A. I don't know. We have other business. There is other funds that have gone in and out of the Wake account at times.

“Q. Was the entire \$1,130 sent to Harry Aronson? A. I don't know.

“Q. Was any portion of it?

“A. I don't know.

“Q. I show you now what purports to be a Western [592] Union telegram apparently sent from Los Angeles on December 8, 1940. (Passing document to the witness.) Have you looked it over?

“A. I have.

“Q. Have you ever seen the original of that telegram?

“A. I have no recollection of having seen it.

“Q. You will notice that it is addressed to George Carleton, care of Western Union, New York City, and is signed O. T. The message is ‘Will be all right.’ It is charged to the phone number MUTual 5698.

“A. That is the phone that is listed to me and half a dozen——

(Deposition of Jacob M. Danziger.)

“Q. Did you send that telegram?

“A. I have no recollection of it.

“Q. Did you have any communication from a person named George Carleton in December, 1940?

“A. None that I recall.

“Q. Does this photostat suggest anything to your mind about business transactions you have had? A. No, sir, it doesn't.

“Q. Did you pay for that wire?

“A. Well, I don't pay the phone bill.

“Q. You pay your proportion of the phone bill, do you not?

“A. Yes, I pay a proportion of the phone bill and—— [593]

“Q. Did you dictate this wire to someone?

“A. I don't remember the wire at all. I can't tell from the wire.

“Q. Don't you remember that George Carleton communicated with you about this some time in connection with the money he proposed to send to you?

“A. No, I don't. I don't recall any communications from Carleton that late. What is the date of that again, December 7?

“Q. The date of the wire is December 8th.

“Who is O. T.?

“A. I don't know.

“Mr. Mainland: At this time I will introduce the file of correspondence with F. A. Russell as Commission's Exhibit 29.

“(The documents referred to were received

(Deposition of Jacob M. Danziger.)

in evidence and marked Commission's Exhibit 29.)

"The Witness: Off the record.

"Mr. Mainland: All right, off the record.

"(Discussion off the record.)

"By Mr. Mainland:

"Q. I hand you a file of correspondence which you previously turned over to me as a part of your correspondence files; in this case the person who is being communicated with is John C. McHattie. The date of a carbon copy of the letter which I am about to show you is March 9, 1937. Were you in England in 1937? A. Yes.

"Q. The carbon copy I refer to is addressed to Mr. McHattie and signed apparently by Wake Development Company, Secretary. There is a pencil note at the bottom of the page which says: 'He is one of C's sales. Better write him a nice letter.' Whose handwriting is that pencil notation in?

"A. That is my sister's handwriting.

"Q. And can you tell from that to whom the pencil note was addressed?

"A. It was evidently addressed to me. It is dated March 9; it evidently was sent to me in London. And on the back of it I have the carbon of a letter to Mr. McHattie dated March 19th.

"Q. The letter of March 19 which you wrote to Mr. McHattie from England was the letter which your sister suggested that you write to him; is that correct?

(Deposition of Jacob M. Danziger.)

“A. I take it that I wrote him in response to the notation on the bottom of the letter. It would indicate that from the file.

“Q. Who is the C referred to by your sister in her note to you?

“A. I take it that it meant Mr. Carman.

“Q. Is that who it meant to you at that time?

“A. I rather think so, yes.

“Q. Is there any doubt in your mind now that it was Mr. Carman that your sister referred to?

“A. No, there isn't, because I think at that time Carman was about the only one we were having the sales relationship with.

“Q. Have you ever had a person working on sales of Trinidad stock who you referred to as C, other than Carman? A. I don't think so.

“Q. In other words, if your sister or anyone else abbreviated the name and called it C, you knew that your sister or someone else was talking about Carman, did you not?

“A. That would be my remembrance of what I would have thought, that C meant. If I got a letter from her today, if she were alive, and she said 'C', I would think she meant Carman.

“Q. There is another letter dated August 25, 1936— that is, it is a carbon of a letter, addressed to John McHattie, apparently signed J. M. Danziger, president. Did you write that letter?

“A. (Witness examining document) Yes, I wrote that letter from London.

“Q. In the last paragraph you say: 'Will ask

(Deposition of Jacob M. Danziger.)

our office to have Mr. Dawson get in touch with you.' [596] Who was the Dawson referred to there?

"A. I take it that Mr. Dawson was someone of these salesmen that was dealing with Mr. McHattie. He mentions him in the correspondence.

"Q. Your sister says that this is on of C's sales, but in your letter to McHattie you tell him that Mr. Dawson will get in touch with him. Isn't it tru that Mr. Dawson was Carman?

"A. I don't know that he was.

"Q. Didn't you know at that time that Dawson was Carman?

"A. I didn't know it then and I don't know it now. From the file I would gather that Mr. Dawson was somebody that Mr. Carman had out on the road selling or working for him.

"Q. When you were in England you received a note or letter from your sister, Mrs. Faulkner, on the date of August 19, 1936, in which she said 'The Carman messages are the ones that concern me. Sometimes they are signed by one name, sometimes another. If they ask me the question this afternoon I am going to tell them both Cs are the same person and that Dawson is someone that works for Carman.' Do you recall receiving that letter from your sister?

"A. Why, I don't recall the detail. If you are reading from a letter that I received from her, I am [597] quite sure I did. I know there was some correspondence between my sister and myself at the time she had been subpoenaed to appear before

(Deposition of Jacob M. Danziger.)

the S.E.C., and she sat down and wrote me the nature of her inquiry and so forth.

“Q. Didn’t that letter from your sister clearly tell you, if you didn’t know before, that Dawson and Carman were one and the same person?

“A. It doesn’t tell me that now.

“Q. Has Wake Development Company in the last three or four years sent out any advertising material? A. No, sir.

“Q. Has it directly employed any salesmen?

“A. It has not.

“Q. Have all the inquiries which resulted in sales of Trinidad stock by Wake Development come unsolicited on the part of Wake Development?

“A. They have.

“Q. In other words, Wake Development Company and yourself as a responsible officer of that company have had nothing to do with bringing about the inquiries which later led to purchases of stock by members of the public?

“A. Unless our original contact with the Great Eastern people might be held or said indirectly to have brought them about, but we made no effort aside from [598] the contract that was made some years ago.

“Q. It must be true, must it not, that someone who knew about the Great Eastern deal has called upon people or otherwise contacted them and informed them about the deal?

“A. I think that is obvious.

“Q. You knew every time you received an in-

(Deposition of Jacob M. Danziger.)

quiry that someone had informed that stockholder of Great Eastern or Golden Quebec or South Mc-Kenzie Mines, that at some time previously Wake Development Company had offered Trinidad stock to holders of those securities?

“A. That was the general statement that was made, although I think there had been some few inquiries that didn’t indicate that somebody had been reviving the matter with them. But I think they were very few.

“Q. Now, I would like to summarize your testimony about this man or these men who may have interested themselves in stimulating inquiries to Wake. Is it your testimony that within the last three or four years you have paid no commissions?

“A. Not as commissions.

“Q. What did you pay them as?

“A. Well, in Aronson’s case we returned to him a portion of money that had been sent in to us and that he was realizing from this sale he made and the purchase he made from us. We had no sales contact with his [599] customers. I don’t call that a commission. Of course, what is a commission is largely a good deal of conclusions from the facts, anyway.

“Q. You no longer maintain that you had no correspondence or contact with Mrs. Parsons, in view of the exhibits that you have introduced?

“A. I am quite sure that we have had.

“Q. At the last meeting you promised to look up the nature of the transaction between Wake

(Deposition of Jacob M. Danziger.)

and J. Arthur Hazelton in the summer of 1938 and to testify as to the price paid by Hazelton, and any commission that was paid on that deal. Have you been able to develop any further data that would aid you in testifying to that matter?

“A. I haven’t found anything bearing on his situation, and I can’t develop the idea any further unless you give me that file of correspondence, which I don’t have; and I might sit down and read it carefully and put two and two together and look into my books, my check book, about that time; but I haven’t any starting point in my mind because I haven’t that correspondence. I would be very glad to do it. If you want to close your hearing I will write you a letter on it or you can have me come back at some other time.

“Q. Do you handle all of the business for Wake [600] now? A. I do.

“Q. How long have you done so?

“A. Since my sister’s death.

“Q. Prior to that time your sister handled it under your general direction; is that correct?

“A. That is correct.

“Mr. Mainland: We will recess the hearing at this time without any definite date for resuming it.

“The Witness: That is perfectly agreeable, Mr. Mainland.

“(Thereupon, an adjournment was taken in the above entitled matter.)”

Mr. Lucas: I will stipulate, for the record, that

(Deposition of Jacob M. Danziger.)

It was never resumed and you never called Mr. Danziger for further testimony of any nature.

Mr. Mainland: That is not right.

Mr. Lucas: Withdraw that statement.

Before we proceed further, your Honor, I have here, and I show to counsel, several letters——

Mr. Rose: Counsel, I think in order that we may have before the court, whatever it is, all of this record, suppose you read the inquiries about the sister, and let's have it all in. That ought to take us up to noon.

Mr. Lucas: I will be very happy to read it.

I read now beginning on page 196. [601]

(Thereupon, counsel read from the transcript as follows:)

“ ‘Q. Now, Mr. Carman was getting money then from——

“ ‘A. (Interrupting) On sales that he made, from the Wake Development Company.

“ ‘Q. How would that money be paid to him?

“ ‘A. Always wired to him. I think once it was sent—I will take that back. I think it was always wired to him.

“ ‘Q. And who wired that money to him?

“ ‘A. I did.

“ ‘Q. Out of the funds of the Wake Development Company?

“ ‘Out of money I received for the payment of stock, he would get a commission.

“ ‘Q. And what was his commission?

Deposition of Jacob M. Danziger.)

“ ‘A. I will let you figure up the percentage yourself.

“ ‘Q. Let’s take an instance where Mr. Carman made a sale of 100 shares of Trinidad stock. Now, what arrangements would he make with reference to that? How much would the purchaser be required to pay for that?

“ ‘A. In money they would be required to pay \$300, and a certificate for 100 shares of Great Eastern stock.

“ ‘Q. Now, when the check and stock was received [602] by you, what did you do with the check?

“ ‘A. I deposited it in Wake Development, for clearance.

“ ‘Q. In the Wake Development Company bank account? A. Yes.

“ ‘Q. Where? A. Bank of America.

“ ‘Q. Downstairs in this building?

“ ‘A. Yes.

“ ‘Q. And that is, Seventh and Spring branch?

“ ‘A. Yes.

“ ‘Q. And you said for clearance?

“ ‘A. Yes. I would take the check over to the collection window, and have them put it through for clearance; instead of depositing it direct in the account. I always put it through for clearance.

“ ‘Q. What was the purpose of that?

“ ‘A. Because Mr. Carman was always very anxious to have his money, and when we put it through for clearance, I could have them air mail

Deposition of Jacob M. Danziger.)

and wire the date, whereas, if we deposited it in the regular course, it would take 10 days. Whereas, if we put it through for collection, I would get the answer back in two or three days.

“Q. Once the check was cleared, how would you make the payment to Mr. Carman? [603]

“A. I would have word from him as to where it was to send the check, whether it was to be a check or what, I was to wire the money. As a rule, I think in every case the money was wired to him.

“Q. And how much would you wire to Mr. Carman on the sales of the 100 shares of Trinidad?

“A. \$200, less the wiring costs.

“Q. So that his commission was \$200 out of every \$300 cash realized?

“A. That's right.”

Mr. Lucas: Before we recess, I would like to offer in evidence as part of the Parson's file, which Exhibit No. 85, a series of letters all on the letterhead of Wake Development Company, and to which letter I think there is attached the envelope in which it came; some of these letters, purportedly, containing the signature of “J. M. Danziger,” some the name “C. Charles Postal.”

Mr. Rose: Secretary.

Mr. Lucas: Some containing the signature of Alda Faulkner,” and some having attachments to them.

I offer them on this basis—

Mr. Rose: There is no objection to them, so you don't have to justify the offer. [604]

Mr. Lucas: All right. But I want to make this comment: It is our contention that wherever the name "J. M. Danziger" is signed as a signature to the letter, that it is either his genuine signature or it was put there with his authorization.

Mr. Rose: No question.

Mr. Lucas: And where "Charles Postal" or "Alda Faulkner" appears, that signature in each case was there under the authority of and under the direction of Mr. Danziger in the course of the business of the Wake Development Company.

Mr. Rose: As an officer of this Court, I will make the statement if you want me to produce him here, that C. Postal is the duly elected secretary of the Wake Development Company, succeeding Mrs. Faulkner. I am making that statement here as an officer of the Court in the present of the Court.

Mr. Lucas: I just wanted to have the record clear as to the basis of our offer. And we ask that it be made a part of Government's Exhibit 85.

The Court: That may be done.

(The documents referred to were attached and made a part of Government's Exhibit No. 85, in evidence.)

Mr. Rose: Just for the purpose of convenience, you Honor, would you direct that this portion of the offered [605] exhibit be marked separately? I notice it contains what purports to be a report on the Trinidad International Petroleum Company by E. H. Cunningham Craig, consulting geologist, of England.

The Court: We will call it 85-A.

(The document referred to was marked as Government's Exhibit 85-A, and was received in evidence.)

Mr. Lucas: I now offer letters on the letter-head of Wake Development Company to F. A. Russell, 119 Merriam Avenue, Leominster, Massachusetts, the same being, I believe, the correspondence referred to on the matters we have just been reading, there being one, two, three letters and attached to one of the letters is a stock certificate of Trinidad International Petroleum Limited No. B-198, and a certificate No. C-114 of Trinidad International Petroleum Limited for 100 shares, the stock certificate being for 100 shares also. And attached to those is a typewritten slip of paper, which——

Mr. Rose: It is a form of receipt for the certificate.

Mr. Lucas: Yes. I offer those in evidence as government's exhibit next in order.

Mr. Rose: There is no objection.

The Court: Admitted.

The Clerk: 87.

(The document referred to was marked as Government's Exhibit 87, and was received in evidence.) [606]

Mr. Lucas: I now offer in evidence as the government's exhibit next in order a correspondence file which I understand was received from the office

of Wake Development Company through Mr. Danziger, the file being the Dr. F. A. Stedcke file, who is one of the persons mentioned in the indictment. The file also has attached to it certain shares of Great Eastern natural gas stock. I offer the entire file, clipped in the manner in which it is, as government's exhibit next in order.

Mr. Rose: This is one of the files discussed in this testimony?

Mr. Lucas: Yes, in the testimony we have just been reading.

Mr. Rose: Very well. No objection.

The Court: Admitted.

The Clerk: 88.

(The document referred to was marked as Government's Exhibit 88, and was received in evidence.)

Mr. Lucas: I now offer in evidence a correspondence file referred to in the testimony of Mr. Danziger which we have just been reading, and referred to there in as the John A. McHattie file. I think every one will remember that was referred to in the testimony we have just completed reading.

Any objection to the offer?

Mr. Rose: No, I haven't any objection.

The Court: Admitted. [607]

The Clerk: 89.

(The document referred to was marked as Government's Exhibit 89, and was received in evidence.)

Mr. Lucas: Mr. Mainland has just handed me some additional F. A. Stedcke correspondence that should be attached to Exhibit 88. I show it to counsel, and I now offer it in evidence and ask that it be made a part of Government's Exhibit 88.

Mr. Rose: I have an objection directed to part of this offer, your Honor. Up to this point, where it appears at a glance, to be communications from any of the defendants with any other persons, no objection has been interjected. I have no objection to the papers on the letterhead of Wake Development Company or the Trinidad International Petroleum Limited, so far as they form a part of this offer; but I certainly object to the paper which appears to be a penciled note on the stationery of F. A. Stedcke in an unknown handwriting, and doesn't appear to be addressed, and has some typewritten notation on it, and the next one which appears to be a receipt by one George Dawson to Stedcke, on the ground that no foundation is laid, the same is incompetent.

Mr. Lucas: Let's save time, then, Mr. Rose, by removing them from the exhibit, and I will offer them for identification.

Mr. Rose: Very well. Naturally, I have no objection to any letter of any kind from Wake or Trinidad. [608]

Mr. Lucas: Now, having removed the two documents objected to by Mr. Rose from the exhibit as offered, I reoffer the exhibit and ask that it be made a part of 88.

The Court: That may be done.

(The documents referred to were attached and made a part of Government's Exhibit 88 in evidence.)

Mr. Lucas: I now offer for identification, and ask that it marked, the two documents objected to by Mr. Rose and just removed from the previous exhibit.

The Court: They may be marked.

The Clerk: 90, for identification.

(The documents referred to were marked as Government's Exhibit 90, for identification.)

Mr. Lucas: I now offer in evidence the correspondence file on the letterhead of the Wake Development Company, being the C. E. Mills correspondence, and about which, I think, there has been testimony in the record in testimony of Mr. Danziger which we just read.

Mr. Mainland tells me that I am in error about that, there having been nothing read in the testimony of Mr. Danziger concerning this exhibit that I am now offering.

Mr. Rose: As far as I remember, this is not any transaction named in the indictment.

Mr. Lucas: The Mills transaction is not one of the counts of the indictment, and he is not referred to by name [609] in the indictment; he is one of the unnamed persons included in that group in the indictment referred to as being too numerous to be specifically set out, and to the Grand Jurors un-

known, but who were persons to be defrauded and included within the scheme and device of the defendants.

Let me state my premise for the offer, inasmuch as my first stated premise was wrong. The offer is made on the ground that the proffered documents appear, some on the Wake Development Company stationery bearing the authentic signature of Alda Faulkner, most of them bearing the authentic or at least the authorized signature of Mr. Danziger.

Mr. Rose: I object on the following grounds, severally: One, this appears to be a 1937 transaction and, therefore, couldn't be one of the alleged omnibus matters that counsel submits culminated in this indictment. There is no proper foundation laid, it is irrelevant and immaterial, and they are not competent for the purpose of upholding the omnibus charge on any hypothesis; and, furthermore, that we are being deprived of our right—if we were called upon to answer for these documents addressed to one Mills in Wilmington, Delaware—that we are being denied the right to be confronted by the witness and examine him. On all these grounds I submit the objection.

Mr. Lucas: May I make one further observation in connection with the offer? I offer the documents as already stated, and as, further, that they be made a part of the [610] Mills correspondence offered in evidence yesterday, for identification, because Mr. Rose had not the opportunity of reading the file, No. 71, for identification. It was in-

troduced for identification yesterday when Mr. Mainland was on the stand. We now ask that the present offered documents be made a part of that exhibit, and that the exhibit be admitted in evidence.

Mr. Rose: And I submit each and all of the grounds of objection heretofore interposed to the group which is now sought to be attached to the series of papers referred to in my objection.

The Court: What about Mr. Rose's objection as to the date, 1937?

Mr. Lucas: That could not be true, your Honor, as to its legal effect. We allege in the indictment that long prior to the filing of the indictment, and the evidence now in the record shows, that something happened in '35, and this letter to which he pointed particular attention occurred in '37, so it is not a premise for an objection.

The Court: What is this exhibit number?

Mr. Lucas: 71.

The Court: Did Mr. Mainland identify 71, for identification?

Mr. Rose: That portion, your Honor, that was marked 71, for identification, was identified.

The Court: He will have to identify this additional [611] offer now, Mr. Lucas, as coming from Mr. Danziger's files.

Mr. Rose: It couldn't be from Mr. Danziger's files; they procured them, apparently, from——

Mr. Lucas: From the persons to whom they are addressed, and they are the originals in each instance, your Honor.

The Court: You will have to prove the signature.

Mr. Lucas: I don't think counsel makes any objection on the signature.

Mr. Rose: You mean the signature of the sender?

Mr. Lucas: Yes, exactly.

Mr. Rose: There isn't anything here to show that there are any envelopes attached.

Mr. Lucas: Do you dispute the signature——

Mr. Rose: I have submitted my objection, and I am going to call for a ruling on it. I am objecting to it on all the grounds.

Mr. Lucas: But not on the ground that the signatures are not authentic?

Mr. Rose: I am simply urging that your theory of how we can try this case and mine are divergent. You think by offering a bunch of unidentified papers, regardless of when they were sent, without producing a witness, is competent evidence. I have made my objection and I am abiding a ruling on it. I haven't anything else to say.

The Court: You will have to prove the signatures.

Mr. Lucas: Very well, your Honor. Then we ask that [612] this exhibit be marked for identification only at this time.

The Clerk: 91, for identification.

The Court: It may be marked.

(The document referred to was marked as Government's Exhibit 91, for identification.)

Mr. Rose: You don't expect to finish with Mr. Mainland today, do you counsel?

Mr. Lucas: We have run past the 12:00 o'clock noon hour. I understood we were going to recess at 12:00, is that right, your Honor?

The Court: Are you going to put him on the stand the next trial date?

Mr. Lucas: Without a doubt. There is quite a bit of material in connection with these records of the Trinidad, and also with respect to how those records were kept, and what they show, and some statements made by Mr. Danziger——

The Court: Have you identified now and offered now all of the files that were referred to in the transcript that you have been reading from?

Mr. Lucas: Yes, I believe we have, your Honor. I think we have been very careful to go along—Mr. Mainland has called my attention to one thing that he recalls, a stub checkbook, and he says it is immaterial to us whether it is introduced or not, but if counsel wanted it we would be very happy to introduce it.

Mr. Rose: I don't insist on it. [613]

Mr. Lucas: The Clerk calls my attention to the fact that 71, offered yesterday for identification—I take it that your Honor's ruling on the admission of this for identification was for the purpose of giving Mr. Rose an opportunity to examine it. The testimony, as I remember, with respect to this, was that 71, for identification, was given to Mr. Mainland by Mr. Danziger in the course of the in-

investigation made by Mr. Mainland for the Securities and Exchange Commission.

Is that true, Mr. Mainland?

Mr. Mainland: That is correct.

Mr. Rose: The record, your Honor, shows that I interposed a series of objections to this document, and before there was a ruling on it, your Honor, counsel sought to add No. 91 to make it a part, whereupon I renewed my objection to both of them.

The Court: 71 is now admitted.

Mr. Rose: May an exception be noted?

The Court: Exception.

Since all of the transcript has been read, that should be given an exhibit number.

Mr. Lucas: Very well. I will say, in connection with that, your Honor, we have no objection to that being given an exhibit number, but for the purpose of aiding me in getting in and making my offers at appropriate times, I have previously read this transcript, and, therefore, in penciled [614] notations here and there are matters that I have written in myself.

The Court: They aren't on the copy that Mr. Rose has been using?

Mr. Lucas: I recall none, no. I don't think there is a single thing on there in my handwriting. Did you find any, Mr. Rose?

Mr. Rose: I never make any penciled notations.

Mr. Lucas: In my handwriting?

Mr. Rose: This is your document. If there is,

they would be too innocuous for me to make any point about it, and I agree that you can offer this copy of the record in compliance with his Honor's suggestion that it be marked in lieu of the original impression that you have made notes on.

Mr. Lucas: I then offer four volumes of official reported proceedings before the Securities and Exchange Commission in the matter of Trinidad International Petroleum Limited, being Docket No. SF-218 of the records of the Securities and Exchange Commission, and ask that it be given an exhibit number in regular order.

The Clerk: 92.

The Court: Admitted.

(The document referred to was marked as Government's Exhibit 92, and was received in evidence.)

The Court: Mr. Lucas, I want you to make every effort [615] to finish the government's case in two more trial days, and not to exceed two more trial days, beginning Tuesday morning at 10:00 o'clock.

Mr. Lucas: I shall be happy to do that, but I warn the Court right now——

The Court: You don't need to warn me.

Mr. Lucas: The amount of time it will take will depend upon the extent of the cross-examination of the witness Carter. You see what I mean there, your Honor, it is something outside of my control.

The Court: That isn't the government's case. You are going to put Carter on last, is that your plan?

Mr. Lucas: Yes, that is my anticipation.

The Court: I will consider that you discharged your duty when you finish all of your case in chief, and if Carter is to be the last witness, I would like to know Wednesday when we adjourn Carter will be available for cross-examination on Thursday morning.

Mr. Rose: There will be no session Monday on our part?

The Court: I wish there might be, but there can't.

Mr. Lucas: May I ask you one thing, your Honor? Counsel has indicated that he is not going to contest many of the exhibits here as to the authenticity of the signatures of Mrs. Faulkner and Mr. Danziger, and otherwise. There are a tremendous number of those documents that contain those what we contend to be authentic signatures, but there are many [616] others there about which I anticipate there might be some dispute, because there are several with names other than that of Mr. Danziger, and notations about "O. T." and this, that, and the other. If we go through that in the course of the proceedings here, it will, of necessity, occupy a lot of the time of those two days.

The Court: We have covered a lot of that. You have had Mainland come up here and say he got this file from Mr. Danziger; that is all the identification I require.

Mr. Lucas: But we want to tie it in, further, as to who put these penciled notations on there; and sometimes the handwriting has been disputed and

sometimes it hasn't. I want to get together with counsel beforehand, if we can, outside of the presence of the Court, to facilitate that. If my two days are going to be consumed with that, I am afraid I won't be able to comply with the Court's very reasonable suggestion.

The Court: We will adjourn until Tuesday morning.

(Whereupon, at 12:30 o'clock p. m., Saturday, January 20, 1945, an adjournment was taken until Tuesday, January 23, 1945, at 10:00 o'clock a. m.)







